



Defence Abuse Reparation Scheme Insights and observations

Report by the Defence Force Ombudsman,
Iain Anderson, under the *Ombudsman Act 1976*

WARNING: THIS REPORT INCLUDES SOME DESCRIPTIONS OF INCIDENTS OF PHYSICAL AND SEXUAL ABUSE, AND BULLYING AND HARASSMENT.

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Highlights



REPORTS OF ABUSE RECEIVED	4,966
REPORTS OF ABUSE CLOSED	2,911
REPORTS OF ABUSE STILL OPEN	2,055



REPARATION PAYMENTS MADE	1,815
TOTAL AMOUNT PAID	\$75,415,000



80% OF REPORTEES WERE NO LONGER SERVING
WHEN REPORTED ABUSE



EARLIEST OCCURRENCES OF ABUSE REPORTED	1946
LATEST OCCURRENCES OF ABUSE REPORTED	2021



83% OF MATTERS CLOSED WERE WITHIN JURISDICTION



235 RESTORATIVE ENGAGEMENT CONFERENCES
CONDUCTED



97 FACILITATED REFERRALS TO COUNSELLING

Key Observations



WHAT DID WE FIND?

- the number of reports of abuse received increased over time, with the largest number of reports received in 2022 as the end of the Reparation Scheme drew closer
 - the highest number of reports of abuse occurred within the Army
 - the highest levels of abuse reported occurred between 2009-2012
 - occurrences of abuse reported by women were disproportionately higher than their representation in Defence
 - around 10% of those who were eligible participated in a restorative engagement conference
 - there has been a downward trend in referrals to counselling over time.
-



WHAT KIND OF ABUSE DID REPORTEES EXPERIENCE?

- bullying and harassment was the most prevalent form of abuse reported
 - reports often related to more than one occurrence of abuse
 - anecdotally, compared with the Defence Abuse Response Taskforce:
 - we received more reports of different types of hazing and initiation practices
 - we received more reports of abuse based on race, religion and sexual orientation
 - there was a small increase in sexual abuses cases reported by men
 - many reports of abuse involved the participation of a reportee's superior – either direct involvement in the abuse or as a witness to the abuse.
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WHAT DID REPORTEES TELL US ABOUT THE ABUSE EXPERIENCED?

- many reportees did not report the abuse at the time because they did not feel there was a safe reporting culture, their superiors were involved in the abuse and/or they had a fear of retribution
- reportees identified long term effects of abuse including: depression, anxiety, PTSD, alcoholism, drug abuse, relationship breakdowns.

Key Observations



WHAT DID WE OBSERVE FROM OUR ADMINISTRATION OF THE REPARATION SCHEME?

- Defence accepted all our recommendations for reparation
- it was difficult for reportees to understand that abuse did not necessarily result in a reparation payment
- we saw a drop off in abuse occurrences alleged to have occurred from 2014 onwards – possibly because eligibility for the Reparation Scheme was tied to the abuse occurring before 30 June 2014
- 2% of reportees withdrew their report. Almost half of these did so because they were not eligible for reparation
- while we retain the power to consider reports of abuse received after 30 June 2023, including ones that relate to abuse after 30 June 2014, and to facilitate restorative engagement processes, we expect the volume of reports of abuse to decline in the absence of a potential reparation outcome.



WHAT DID REPORTEES TELL US ABOUT THE DEFENCE ABUSE REPORTING FUNCTION?

- many reportees felt it was a step towards closure and an acknowledgement of what they experienced
- others, including those who did not receive the outcome they were seeking, said it was too long a process or they were disappointed if our assessment was that the abuse was not the most serious abuse eligible for a reparation payment
- an overwhelming majority of participants in restorative engagement felt it was a very positive and constructive experience
- some reportees decided not to pursue the restorative engagement program because they felt an apology would not rectify the damage done to them by the abuse.

EXECUTIVE SUMMARY

Serious abuse in the Australian Defence Force (Defence) is a critical issue which has confronted the Defence community for many years. Any abuse can have a significant impact on the individual. It should not have happened. Through our Defence abuse reporting function and the administration of the Defence Abuse Reparation Scheme (Reparation Scheme), we have seen the lifelong impacts on current or former Defence members. The Reparation Scheme acknowledges that the abuse in Defence was wrong, that it can have a lasting and serious impact on individuals and that Defence has not always responded appropriately.

This report has been prepared in recognition of the Reparation Scheme closing to new reports on 30 June 2023.¹ While the Reparation Scheme is now closed to new reports, the Defence Force Ombudsman's (DFO) role administering the Reparation Scheme continues as all eligible reports received on or before 30 June 2023 must be assessed for a possible reparation payment.

This report provides data up to 30 June 2023 (as extracted at a point in time), and some early insights and observations on the DFO's experience operating the Defence abuse reporting function and, in particular, our role in administering the Reparation Scheme. We acknowledge the courage of the reportees who made the significant and difficult decision to come forward and tell us about their experience of abuse while serving in Defence. We seek to apply a trauma-informed approach to ensure they engage safely with our Office.

The Reparation Scheme has not led to a reparation payment for every person who has been impacted by abuse. The power to recommend a reparation payment arises only where the abuse suffered is 'the most serious forms of abuse' or 'unlawful interference accompanied by an element of indecency'.² It is important to recognise that the reparation element of our function is designed to focus on the nature of the abuse suffered and not the impact of the abuse, which can vary significantly for different people.

This is not said to downplay the importance of the Reparation Scheme or the ongoing DFO function. Whether through recommendations for reparation payment, assisting reportees to access counselling or facilitating restorative engagement; this work has led to many positive outcomes for those who have suffered abuse while serving in Defence.

While we will not be able to recommend reparation payments for reports received after 30 June 2023, the DFO's functions otherwise continue unchanged. We will continue to provide an independent and external mechanism for reporting abuse for Defence members uncomfortable reporting internally within Defence, we will continue to facilitate counselling or participation in our Restorative Engagement (RE) program, and we will continue to respond appropriately to individual complaints, as well as addressing systemic issues through own motion investigations.

The work of the Royal Commission into Defence and Veteran Suicide (RCDVS) is also continuing and is due to report in June 2024. We assisted the RCDVS by voluntarily appearing before it in 2022 to provide our insights into the Defence abuse reporting function to date and continuing to provide further assistance as requested.

¹ Regs 14(1)(a)(iia) and 14(1B) of the Ombudsman Regulations 2017.

² Reg 14A of the Ombudsman Regulations 2017.

PART 1: BACKGROUND

- 1.1. In 2011, the Minister for Defence announced 6 independent reviews in response to an incident at the Australian Defence Force Academy (ADFA). The independent reviews considered aspects of Defence's culture, including the treatment of women, alcohol use, social media use, complaint handling and incident management.³ In 2012, Defence released its response to those reviews. The *Pathway to Change: Evolving Defence Culture 2012-2017* formed a 5-year strategy to implement 175 recommendations made by the independent reviews to support cultural reform in Defence.
- 1.2. The establishment of the Defence Abuse Response Taskforce (DART) on 26 November 2012 was one of a range of measures undertaken in response to the independent reviews and the *Pathway to Change* strategy. The DART was established to assist complainants who had suffered sexual abuse, physical abuse, sexual harassment and workplace harassment and bullying in Defence prior to 11 April 2011.⁴
- 1.3. The DART was initially intended to operate for a period of one year but was extended to 30 June 2016. The cut-off date for complaints to the DART was 31 March 2013, or 15 September 2015 for women who experienced sexual abuse at ADFA during the period 1991-1998.⁵
- 1.4. The DART final report dated March 2016 included 8 recommendations. Recommendation 7 stated:

That the Defence Force Ombudsman monitor Defence's implementation of these Recommendations, including in particular Recommendation 6, and report his findings to the Chief of the Defence Force and in the Defence Force Ombudsman's Annual Report.
- 1.5. The DFO is continuing to monitor the implementation of these recommendations and expects to report on Defence's implementation in 2023-24.
- 1.6. The DART wound up on 31 August 2016. The Australian Government expanded the role of the DFO to provide an independent Defence abuse reporting function which took effect from 1 December 2016 via the [Ombudsman Amendment \(Functions of the Defence Force Ombudsman\) Regulation 2016](#).
- 1.7. The primary purpose of this function is to complement reforms undertaken in Defence to prevent and respond to abuse, following the work of the DART, recognising that an independent complaints mechanism remains desirable for those victims who remain uncomfortable reporting abuse within Defence. This work also implements recommendation 8 of the DART final report which stated:

As subjects of past abuse will continue to come forward when they feel able to do so for many years into the future, the Taskforce considers that the Government and Defence should develop and implement processes to enable them to do so and to have their complaints responded to appropriately.

³ Joint Standing Committee on Foreign Affairs, Defence and Trade, [Review of the Defence Annual Report 2010-2011](#), Chapter 7: Reviews of Defence Culture, paragraph 7.2.

⁴ Australian Government, *Defence Abuse Response Taskforce – Final Report*, March 2016, p.1.

⁵ Australian Government, *Defence Abuse Response Taskforce – Final Report*, March 2016, p.12.

Defence Abuse Reparation Scheme – Insights and observations

- 1.8. Defence's *Pathway to Change* strategy was updated in 2017 – *Pathway to Change: Evolving Defence Culture 2017-2022* – and identified Defence's cultural reform priorities, including strengthening accountability in leadership, inclusion and integration, ethics and workplace behaviours, and health, wellness and safety.
- 1.9. The National Redress Scheme (NRS) was established in response to the Royal Commission into Institutional Responses to Child Sexual Abuse. The NRS started on 1 July 2018 and will run for 10 years. The NRS provides support to people who experienced institutional child sexual abuse and can help those people gain access to counselling, a direct personal response, and a redress payment.
- 1.10. Defence is participating in the NRS. Where a person reporting abuse to the DFO reports sexual abuse that occurred before they turned 18, the DFO advises the person to consider reporting that abuse to the NRS. If a reportee makes a report to both the NRS and the Reparation Scheme, the outcomes of both processes are considered to ensure that there is no duplication of reparation for the same instances of abuse. The Royal Commission into Institutional Responses to Child Sexual Abuse found in its Final Report, from the information made available, that 'survivors took on average 23.9 years to disclose child sexual abuse, with men taking longer than women to disclose' and some people never disclosing.⁶

The Defence Force Ombudsman's role

- 1.11. The Commonwealth Ombudsman's role as the DFO is established under Part IIA of the *Ombudsman Act 1976* (the Act) and Part 3 of the Ombudsman Regulations 2017 (the Regulations).

Legislation	Section
<i>Ombudsman Act 1976</i>	Part IIA - Establishment, functions, powers and duties of the Defence Force Ombudsman
Ombudsman Regulations 2017	Part 3 – Defence Force Ombudsman

- 1.12. The position of DFO was created in 1983. It allows for the DFO to receive and investigate complaints about administrative action taken by Defence agencies, including the Navy, Army and Air Force, the Department of Defence, Defence Housing Australia and the Department of Veterans' Affairs. This is an ongoing role.
- 1.13. From 1 December 2016, following the cessation of the DART, the DFO's role was expanded to include taking appropriate action to respond to reports of abuse from serving and former Defence members, and civilians deployed on Defence operations. This function provides an independent, external, impartial and confidential mechanism to report abuse for those who feel unable, for whatever reason, to access Defence's internal mechanism.

⁶ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Identifying and disclosing child sexual abuse*, Commonwealth of Australia, 2017, volume 4, page 16.

Defence Abuse Reparation Scheme – Insights and observations

- 1.14. 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.
- 1.15. The DFO may take appropriate action in response to a report of abuse if they are satisfied it constitutes *abuse* (as defined in the Regulations) which is *reasonably likely* to have occurred.
- 1.16. Abuse is defined in the Regulations to include sexual abuse, serious physical abuse, and serious bullying and harassment. Having regard to this definition, the DFO frequently uses the expression ‘serious abuse’, which is also used throughout this report, to denote abuse as defined in the Regulations.
- 1.17. If a report of abuse is assessed as being within the DFO’s jurisdiction based on the criteria above, several options are available to the DFO to take appropriate action in response. The responses available to the DFO include:
- participation in this Office’s RE Program
 - facilitated referral for counselling
 - for reports lodged between 16 December 2017 and 30 June 2023, recommending that Defence make a reparation payment, if the report is assessed as eligible.
- 1.18. The DFO 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 that occurred prior to 11 April 2011. However, reparation payments by Defence can only be made in relation to reports of abuse that occurred on or before 30 June 2014.
- 1.19. The Reparation Scheme, under which the DFO can make recommendations for reparation payments, is discussed further at Part 3.
- 1.20. We do not require reportees to sign a waiver that would in any way prevent them from pursuing other civil or criminal recourse including other compensation.
- 1.21. The DFO’s functions under the Regulations also include undertaking inquiries into Defence’s own internal procedures in relation to making and responding to complaints of abuse and the effectiveness and appropriateness of those procedures.⁷

⁷ Regulation 14(1)(c) of the Ombudsman Regulations 2017.

Defence Abuse Reparation Scheme – Insights and observations

- 1.22. To date we have completed 2 inquiries. In 2019 we finalised an inquiry into Defence’s policies and procedures for receiving and responding to reports of abuse which made 6 recommendations to Defence aimed at maintaining a prevention-focused culture with respect to abuse.⁸ We subsequently assessed that all 6 recommendations have been implemented by Defence. In 2020, we finalised an inquiry into behaviour training for Defence recruits which made 5 recommendations to Defence designed to improve recruit training.⁹ To date, we have assessed 3 recommendations as fully implemented by Defence with the remaining 2 recommendations partially implemented. We continue to monitor Defence’s implementation of these recommendations.

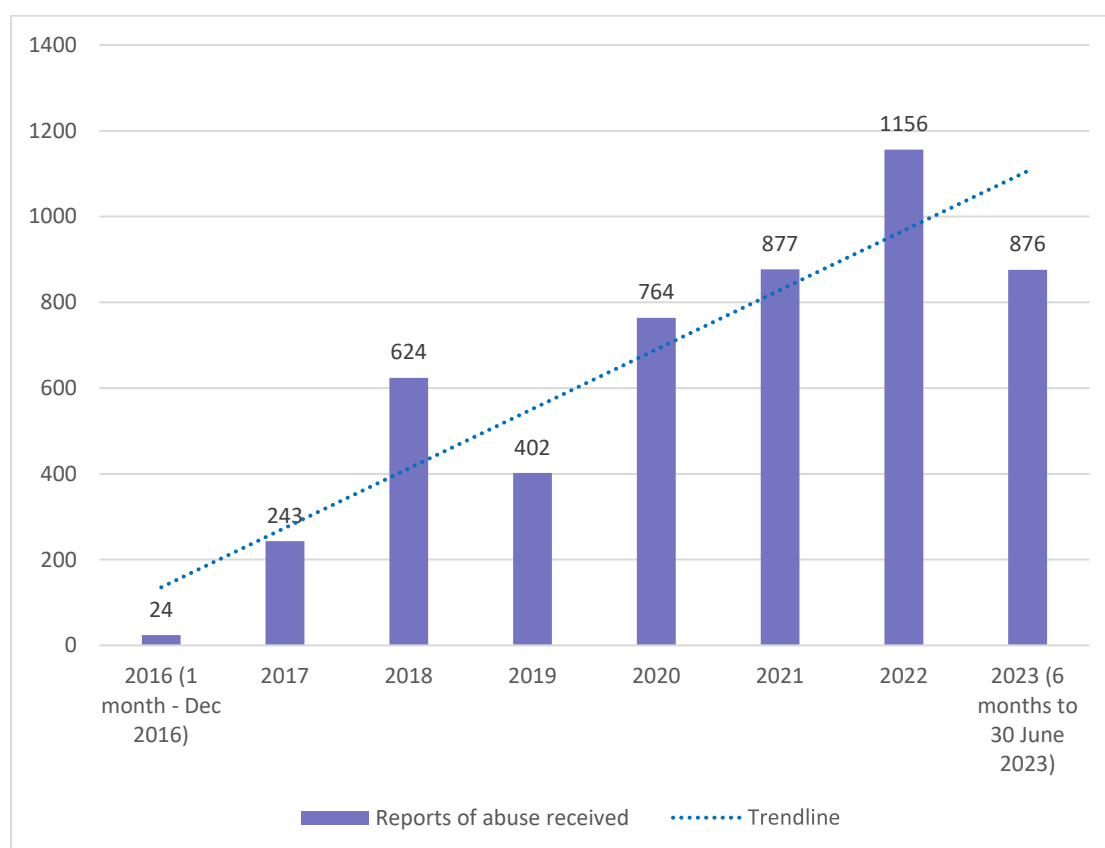
⁸ Commonwealth Ombudsman, [Defence's policies for receiving and responding to reports of abuse](#), [PDF 1170KB], August 2019, accessed 22 August 2023.

⁹ Commonwealth Ombudsman, [Inquiry into behaviour training for Defence recruits](#), [PDF 1521KB], July 2020, accessed 22 August 2023.

PART 2: THE DEFENCE ABUSE REPORTING FUNCTION IN PRACTICE

- 2.1. This report includes both statistical data based on reports of abuse received by our Office and anecdotal information based on our observations administering the Reparation Scheme. For further information on our use of data in the report and key definitions to understand the data, please see **Appendix**.
- 2.2. From 1 December 2016 to 30 June 2023, our Office received 4,966 reports of abuse. These reports involve historical occurrences of abuse dating back to 1946. As illustrated in Figure 1 below, since the introduction of the Reparation Scheme in December 2017, we have seen a substantial increase in the number of reports of abuse.

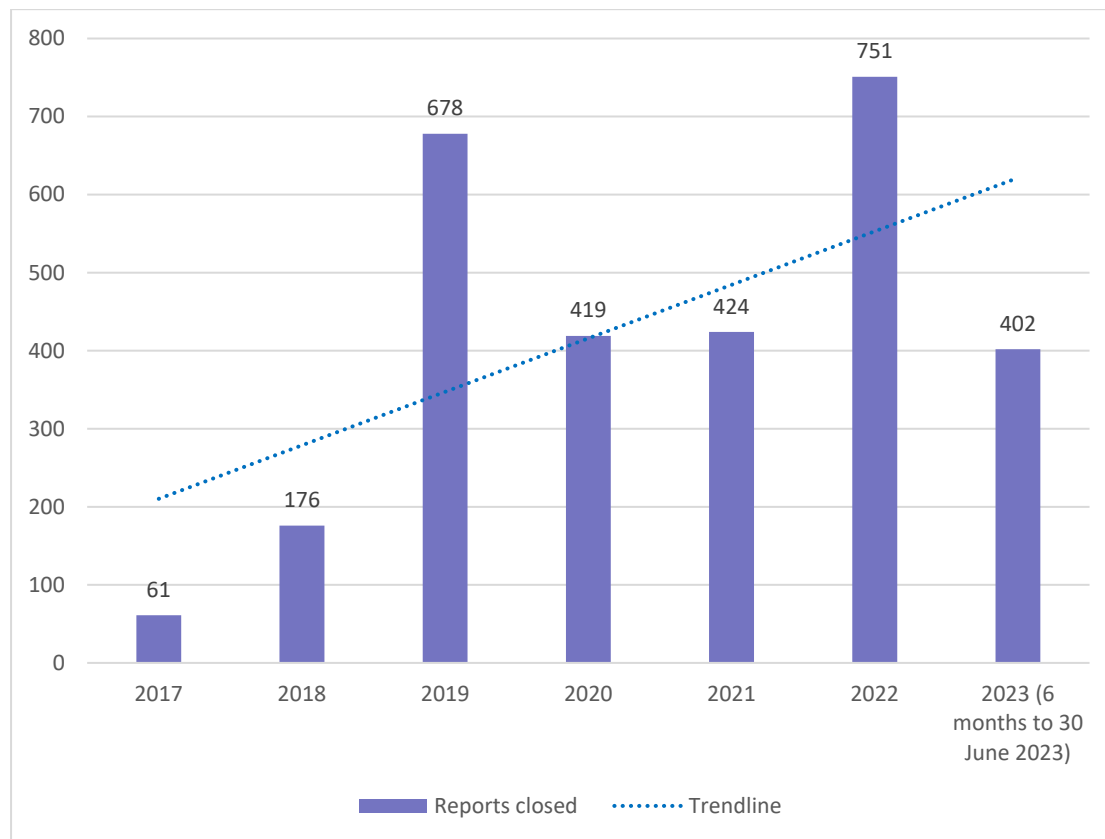
Figure 1: Reports of abuse received from 1 December 2016 to 30 June 2023



Defence Abuse Reparation Scheme – Insights and observations

- 2.3. As at 30 June 2023, 2,911 reports were closed¹⁰ and 2,055 were open. Reasons why a report may be open includes where it is awaiting or undergoing assessment, waiting for an RE conference, waiting for Defence to make a decision on a reparation recommendation, or waiting for Defence to make a reparation payment.

Figure 2: Reports of abuse closed as at 30 June 2023

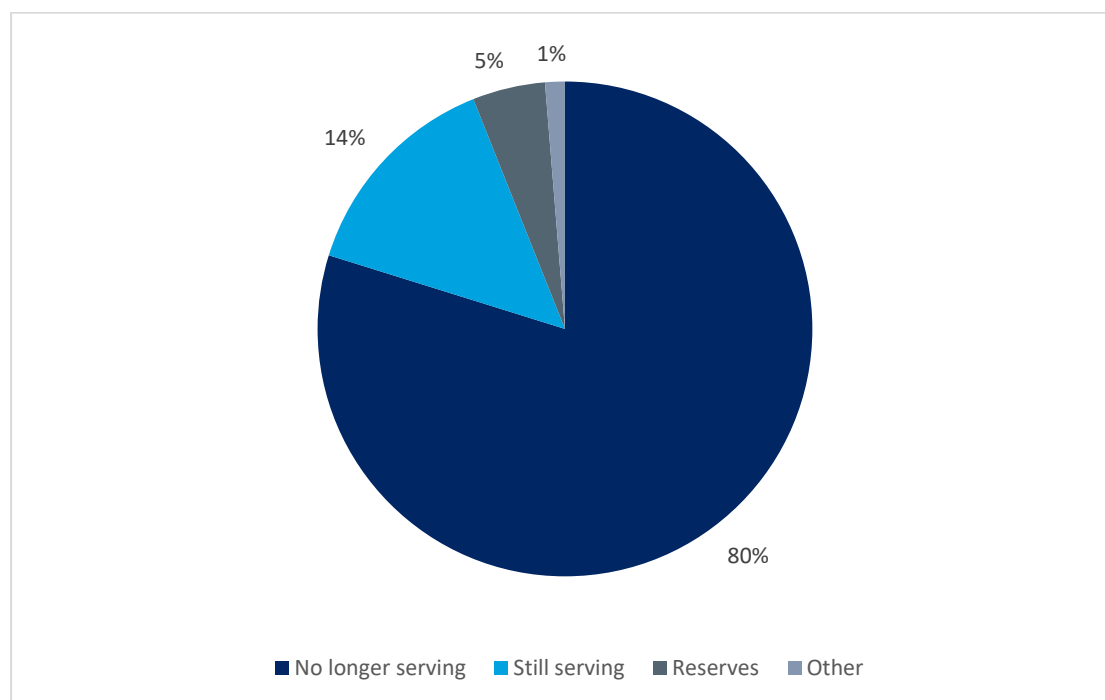


¹⁰ See definition of 'closed' in Appendix.

Defence Abuse Reparation Scheme – Insights and observations

- 2.4. The vast majority of reportees were no longer serving in Defence when they reported the abuse to the DFO. Of the reports that have been closed at 30 June 2023, 80% of reportees were no longer serving in Defence at the time of reporting the abuse to the DFO, 14% were still serving and 5% were in Reserves. There were a further 1% of reportees who were considered in an 'Other' category – this refers to reportees who, at the time of reporting the abuse, were APS employees or never employed by Defence.

Figure 3: Service status of reportees at the time of reporting abuse to the DFO – from reports closed as at 30 June 2023



- 2.5. Of the reports that have been assessed¹¹ at 30 June 2023, the most reported 'Top Ten' locations where individuals making a report have named one or more occurrences of abuse¹² are outlined in **Figure 4** below.¹³ Of those reports assessed, the earliest occurrences of abuse reported to the DFO occurred in 1946 and the most recent occurred in April 2021. In many instances, each report received by our Office related to more than one occurrence of abuse or occurrences that involved multiple types of abuse which may have occurred at more than one location. Due to the method of data entry, this data is based on number of reports assessed and does not capture all locations where each occurrence of abuse happened.

¹¹ See definition of 'assessed' in Appendix.

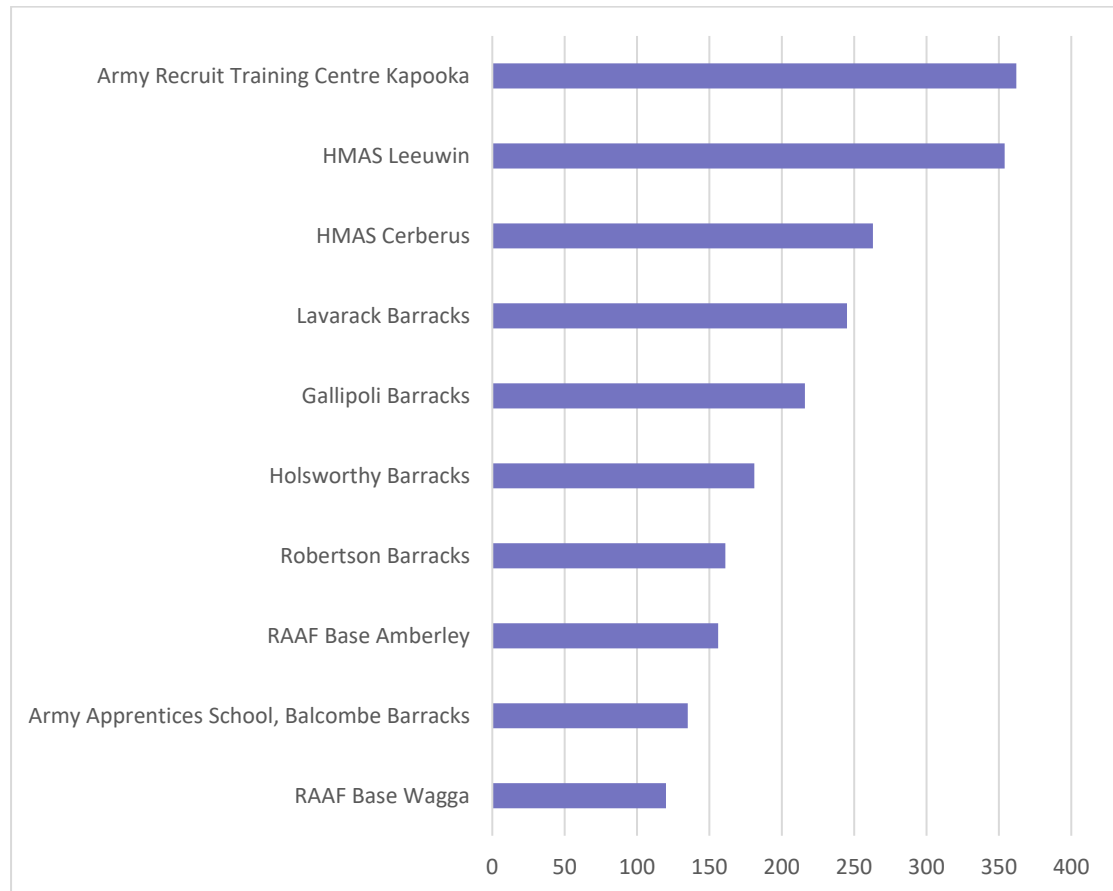
¹² See definition 'occurrence' in Appendix.

¹³ This does not take into account any occurrence reported as occurring not on a Defence base. It also includes reports that were found to be fully or partially out of jurisdiction.

Defence Abuse Reparation Scheme – Insights and observations

- 2.6. In considering this data it is important to note that some of these locations have since closed (for example, HMAS Leeuwin and Army Apprentices School at Balcombe). Further, all enlisted soldiers pass through Kapooka and the Army is the largest of the Defence services.

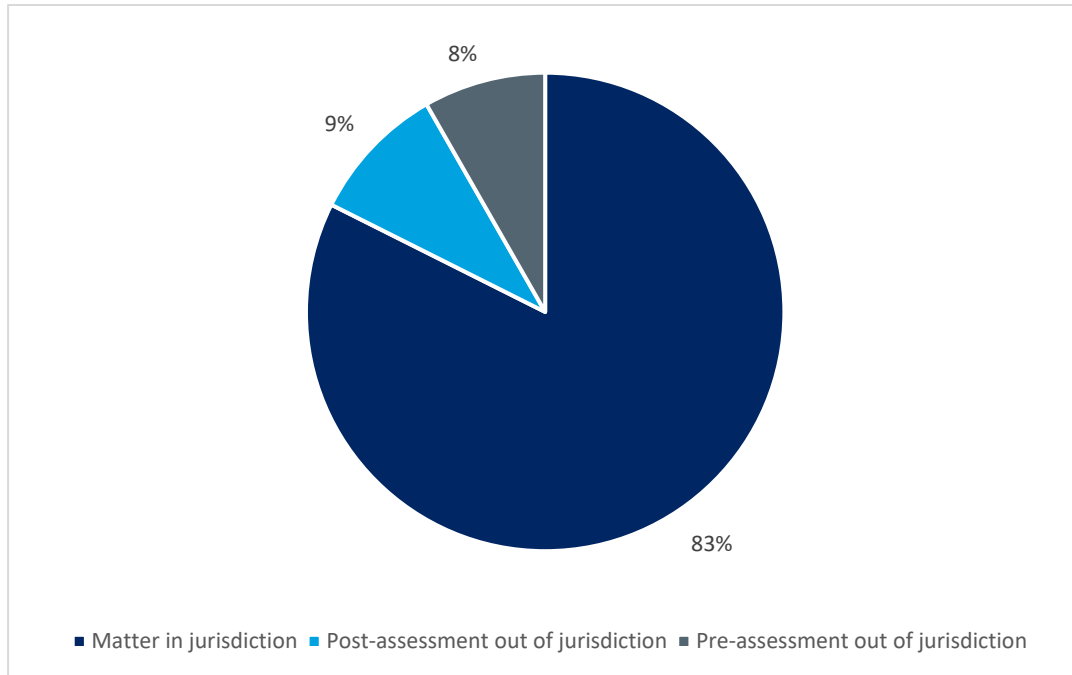
Figure 4: Top ten locations where reports identified one or multiple occurrences of abuse, assessed as at 30 June 2023



Defence Abuse Reparation Scheme – Insights and observations

- 2.7. Of the reports closed as at 30 June 2023, there were 2795 reports with an assessment decision recorded. Of these 2795 reports, 2303 were found to be within the DFO’s jurisdiction and 492 were found to be outside the DFO’s jurisdiction.¹⁴ It is noted that there are additional reports where an assessment decision has been recorded that remain open as at 30 June 2023.¹⁵

Figure 5: Total assessment decisions for the reports closed as at 30 June 2023



- 2.8. Reasons for a report not being accepted as within the DFO’s jurisdiction at the ‘pre-assessment’ stage include where:
- the report was already dealt with by the DART¹⁶
 - the reportee, at the time of the alleged abuse, was not a member of Defence
 - the alleged abuser, at the time of the alleged abuse, was not a member of Defence
 - the abuse did not occur in connection with the reportee’s employment with Defence
 - the reportee was a witness to abuse but did not directly experience abuse.
- 2.9. Some of these factors may also be considered at the ‘post-assessment’ stage (for example, it may appear that an alleged abuser was a member of Defence at the time of the abuse, but Defence subsequently confirms they were not). If there is any ambiguity in the information provided, it will generally proceed to a full assessment.

¹⁴ These figures are based on number of reports closed because an assessment decision is potentially subject to review until the report is closed.

¹⁵ The assessment decision could have been made post-30 June 2023.

¹⁶ See reg 14(1A)(c) and reg 5 of the Ombudsman Regulations 2017.

Defence Abuse Reparation Scheme – Insights and observations

- 2.10. The DFO's acceptance of a report of abuse under the Regulations does not amount to a finding of fact or definitive proof the abuse occurred. Further, it does not necessarily meet the standard of proof sometimes required for other government agencies noting that government and parliament can set different standards for different purposes and schemes.

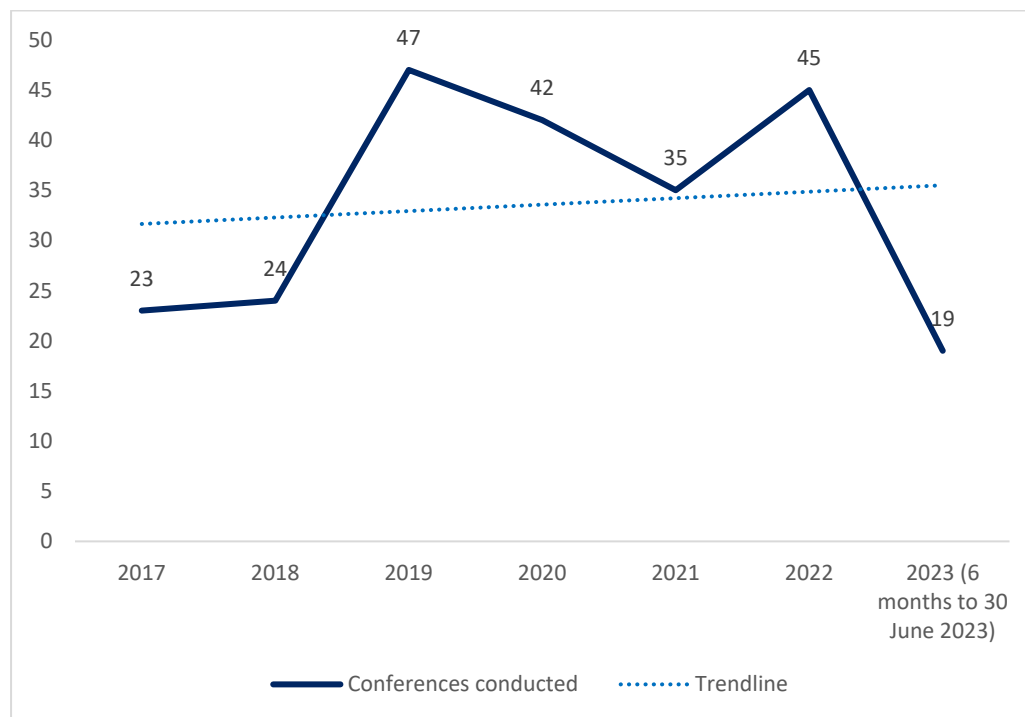
Restorative Engagement

- 2.11. If a report of abuse is assessed as being within the DFO's jurisdiction, a reportee is eligible to participate in the DFO's RE program. This is a program designed to support reportees to tell their personal experience of abuse to a senior representative from Defence in a private, facilitated meeting – an RE conference. The conference also provides the opportunity for Defence to acknowledge and respond to a reportee's personal story of abuse.
- 2.12. A second objective of the RE program is to enable a broader level of insight into the impact of abuse and its implications for individuals and Defence. This insight is critical to building on cultural change strategies in Defence.
- 2.13. The RE program was initially established by the DART, where after reviewing the possibility of having a restorative justice process as one of the possible outcomes of reporting, they found this model would be unsuitable. Using some of its basic principles, the RE model was developed. This new model relies on the institution taking accountability for the abuse, rather than the individual perpetrators.
- 2.14. The RE program operates on the premise that the experience of abuse and the harm caused is undisputed, meaning that all participants enter into the process with the understanding that the report of abuse is accepted on the basis of the DFO's threshold of reasonable likelihood.
- 2.15. The RE conferences are facilitated by DFO-trained facilitators who are highly trained professionals from a wide range of backgrounds including social workers, psychologists and lawyers. All facilitators participate in training run by the DFO, which focuses on the necessary skills to ensure participants are able to participate in a safe conference process and importantly, do no further harm.
- 2.16. The senior Defence representatives that participate in the RE conferences are all volunteers. After volunteering they receive training conducted by the DFO to provide them with the knowledge and skills necessary to listen to reportees experiences of abuse and how to acknowledge and respond to these accounts in a trauma informed manner.

Defence Abuse Reparation Scheme – Insights and observations

- 2.17. There have been 235 RE conferences conducted as at 30 June 2023. This is approximately 10% of total reports closed that were considered in jurisdiction. We will facilitate an RE conference for a reportee if they indicate they are interested in being considered for an RE conference and if the reportee is eligible.
- 2.18. While there has been an increase in the number of RE conferences conducted over time as per **Figure 6**, there was a small dip in 2021 due to travel restrictions associated with COVID-19. For 2023, we have conducted 19 RE conferences up to 30 June 2023 and have several conferences scheduled to be conducted in the remainder of the 2023 calendar year.

Figure 6: Number of restorative engagement conferences conducted to 30 June 2023

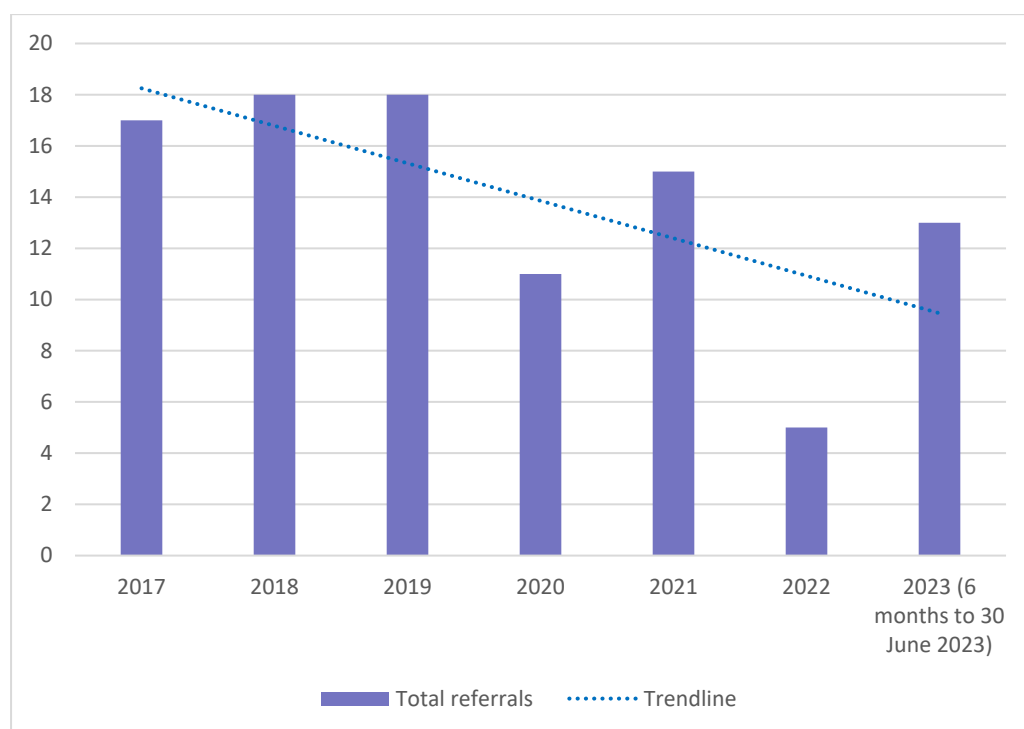


Defence Abuse Reparation Scheme – Insights and observations

Counselling

- 2.19. The DFO can also assist reportees with a facilitated referral to counselling with Open Arms – Veterans and Families Counselling. This service provides free and confidential, nation-wide counselling and support for all current and former members of the Defence, who have at least one day continuous full-time service.
- 2.20. As at 30 June 2023, we have made 97 facilitated referrals of reportees to counselling since 2017.
- 2.21. We have seen a downward trend in referrals to counselling over time. In most cases, by the time reportees are submitting their report of abuse to our Office, they will have already had various communications from a variety of sources regarding Open Arms, with many already accessing their services.

Figure 7: Number of referrals to counselling as at 30 June 2023



PART 3: DEFENCE ABUSE REPARATION SCHEME (THE REPARATION SCHEME)

- 3.1. Since 16 December 2017, the DFO has a limited power to recommend that Defence make reparation payments to those who have experienced abuse if satisfied it constitutes *serious abuse* which is *reasonably likely* to have occurred.
- 3.2. A reparation payment under this Scheme is a payment to a person, which is made by the Australian Government through Defence in acknowledgement that the most serious forms of abuse and sexual assault within Defence is wrong and should not have occurred.
- 3.3. The DFO may recommend to Defence that a reparation payment be made in relation to a report of serious abuse which has been accepted, if certain criteria in the Regulations are satisfied, including:
 - the abuse occurred on or before 30 June 2014
 - the report of abuse was made to the DFO on or before 30 June 2023 (and an intent to report abuse was lodged prior to 1 July 2022 for reports made between 1 July 2022 and 30 June 2023).
- 3.4. While the abuse reported must be serious to fall within the DFO's jurisdiction under Part 3 of the Regulations in the first place – per the definition in reg 5 of the Regulations – a further threshold of seriousness must be satisfied for the DFO to recommend a reparation payment. Specifically, the DFO may recommend a reparation payment only where satisfied that the abuse involved either:
 - the most serious forms of abuse (reg 14A(1)(b)), or
 - unlawful interference accompanied by some element of indecency (reg 14A(2)(b)).
- 3.5. This applies to reports of the most serious forms of abuse which occurred before 30 June 2014. This cut-off date was a decision of the Australian Government to acknowledge the implementation of Defence reform activities.
- 3.6. DFO staff have worked with reportees to assist them to engage safely with our Office recognising the trauma they have experienced. Our work is informed by trauma-informed practice and principles of safety, trustworthiness, choice, collaboration, and empowerment.

Public awareness of DFO role and the Reparation Scheme

- 3.7. Since the expansion of the DFO's role and the commencement of the Reparation Scheme we undertook the following public awareness campaigns to inform the community of the existence of the Reparation Scheme as well as the relevant closing dates:
- in early 2017 we conducted a campaign to promote the expansion of the DFO's role to include an abuse reporting function for serving and former Defence members, and civilians deployed on Defence operations (press, radio and social media)
 - in late 2017 we conducted a campaign to advertise the reparation payment component of the Reparation Scheme (press and Facebook)
 - in April 2021, we conducted a campaign to advise of the extension of the Reparation Scheme cut-off date from 30 June 2022 to 30 June 2023 (social media and mail-outs)
 - in April 2022 we conducted a campaign to advertise the final deadline for reports, in particular, the 'Intent to Report' deadline of 30 June 2022 and the final deadline for reports of 30 June 2023 (press and mail-outs).
 - throughout 2023 we conducted several mail-out campaigns to reach out to those who had lodged intentions to report but not yet lodged the report itself.
- 3.8. In addition, the Reparation Scheme was the subject of more passing of information via 'word-of-mouth' amongst the community through:
- recipients of reparation payments setting up consultancies to advise other reportees
 - ex-service persons organisations
 - law firms advocating for reportees
 - reunion events for various Defence cohorts from different time periods
 - Defence personnel Facebook pages
 - the overall rise and prevalence of social media.

Reparation payments

3.9. The purpose of a reparation payment is to:

- acknowledge that abuse can have a lasting and serious impact
- recognise that, in the past, Defence did not respond appropriately in many cases, and
- acknowledge that mismanagement by Defence of verbal/written reports or complaints about abuse is unacceptable.

3.10. There are 2 possible reparation payments we may recommend:

- Tier 1 – a payment of up to \$45,000 to acknowledge the most serious forms of abuse. As at 30 June 2023, 1241 Tier 1 payments had been made.
- Tier 2 – a payment of up to \$20,000 to acknowledge other abuse involving unlawful interference, accompanied by some element of indecency. As at 30 June 2023, 566 Tier 2 payments had been made.

3.11. If the DFO recommends one of these payments, an additional payment of \$5,000 may also be recommended where the DFO is satisfied that Defence did not respond appropriately to the abuse. Of the reparation payments that were made at both the Tier 1 and Tier 2 levels as at 30 June 2023, 1630 payments also included the additional payment of \$5,000.

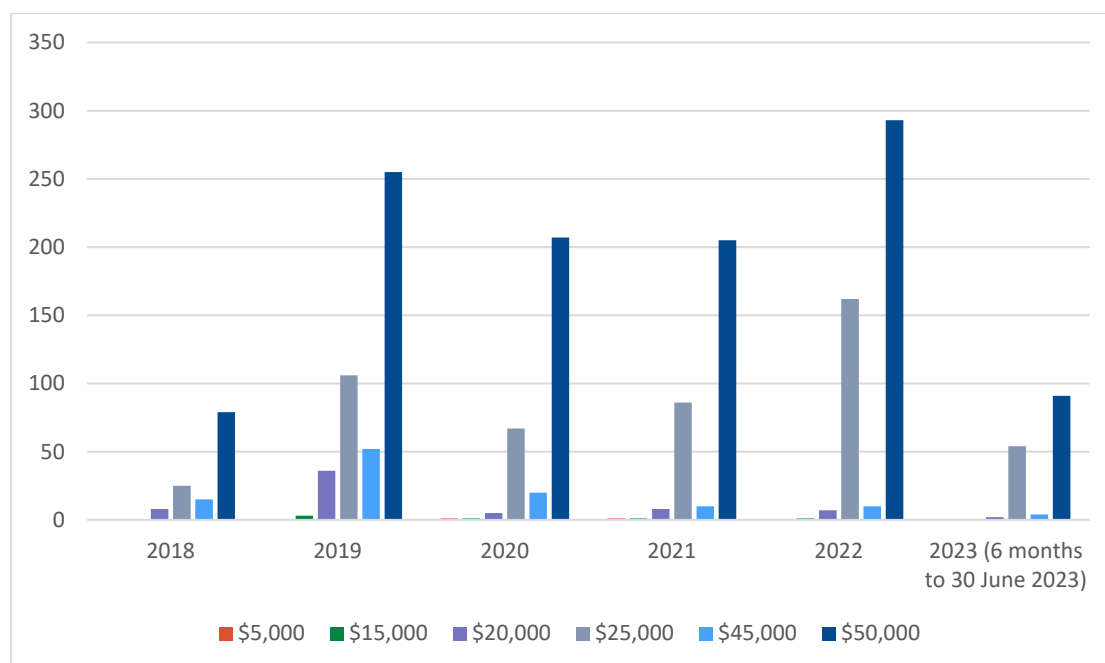
3.12. Over the duration of the Reparation Scheme as at 30 June 2023, 8 ‘non-standard payments’ have been made to reportees – 6 for \$15,000 and 2 for \$5,000. This was due to the reportee previously receiving a payment from the DART and the payment from the Reparation Scheme being offset against that previous payment. The DFO is unable to consider complaints that were previously made to, and dealt with by, the DART. However, a complainant who previously received a payment from the DART in relation to an incident of abuse may complain to the DFO about a different incident of abuse. In these circumstances, any payment for abuse or Defence mismanagement that might otherwise be recommended by the DFO will be reduced by the amount the complainant previously received from Defence through the DART for abuse or Defence mismanagement respectively. The result of this will be that the maximum reparation payment an individual can receive from the DART and under the Reparation Scheme combined is \$50,000. This reflects that the maximum payment a person can receive under either scheme is \$50,000, and a person should not benefit from the intersection of the two schemes.

Defence Abuse Reparation Scheme – Insights and observations

3.13. As at 30 June 2023:

- Defence has considered and accepted 1,815 recommendations, totalling approximately \$75,415,000. Of these, 1,814 recommendations were considered and accepted in full, and one was partially accepted.
- 388 recommendations were awaiting Defence consideration.

Figure 8: Number of reparation payments made – at 30 June 2023



Discretionary scheme

- 3.14. The decision to recommend a payment or not, and if so, in what amount, is a discretionary decision. It is not a claims process for a payment to which a person is entitled.
- 3.15. There are no ‘eligibility’ criteria which, if satisfied, dictate the recommendation of a particular payment. There is no entitlement to a payment. Rather, the decision-maker will follow the DFO’s internal and external guidelines¹⁷, consider all the circumstances of individual reports and decide accordingly whether to recommend to Defence that it make a reparation payment in accordance with the Regulations. Defence will then decide whether to accept the recommendation and make the payment.
- 3.16. The Reparation Scheme has established a mechanism for individuals to report abuse (particularly sexual assault) and be believed at the threshold of ‘reasonably likely’ which is lower than the burden of proof in any criminal or civil proceedings. The threshold was set low because it was expected that a large volume of historical cases would come forward and it would not be possible for these historical cases to meet a higher threshold.

¹⁷ Commonwealth Ombudsman, *Defence Abuse Reparation Scheme – guide to the exercise of our discretionary recommendation power*, March 2019.

Timeliness of process

- 3.17. For more than 4 years after the commencement of the Reparation Scheme, the rate of reports received by the DFO was relatively stable. From May 2022, however, there was an increase in reports as the end of the Reparation Scheme drew closer as well as a large volume of intents to report (30 June 2022 was the deadline to give an intent to report for people wishing to lodge a report by 30 June 2023).
- 3.18. To address the increase in reports and in seeking to provide timely outcomes, from October 2022 we commenced implementing several key process and decision-making changes. We re-deployed staff who previously held a liaison role to support the work required to assess reports. This resulted in our Office no longer offering a dedicated Liaison Officer to respond to routine queries, such as those relating to the status of reports, but contributed to significant improvements in timeliness and productivity. As a result of these changes, we have doubled the rate at which reports of abuse are assessed compared to the first 4 years of the Reparation Scheme.
- 3.19. Key parts of our assessment process require significant input from Defence so the timeframes in which reports are resolved are not exclusively within our control.

Review of decisions

- 3.20. If a report of abuse is not accepted by the DFO or the reportee does not agree with the DFO's reparation payment recommendation, the reportee can request a review of the decision. Reviews are conducted by a different decision-maker who has not had any prior engagement with the matter.

Jurisdictional assessment

- 3.21. Some reports are found to be wholly or partially out of jurisdiction. This means that all or some of the criteria we apply have not been met. For example, the reportee or abuser was not an employee of Defence; there was no connection between the conduct and Defence employment; or the DFO was not satisfied that the conduct meets the thresholds of *serious abuse* and/or *reasonably likely* to have occurred.
- 3.22. The DFO's jurisdiction does not cover certain conduct including conduct perpetrated by foreign soldiers, sponsors, civilian doctors employed by Defence, abuse perpetrated on Defence cadets who were minors (as they were not Defence members), or abuse perpetrated at pre-enlistment medical examinations.
- 3.23. A report found to be partially out of jurisdiction will have reported multiple occurrences of abuse, with some accepted, and others not accepted to be in jurisdiction.
- 3.24. When a report is found to be out of jurisdiction (wholly or partially), the reportee is given 28 days to decide whether to seek a review, and may always request an extension, having regard to the trauma-informed approach of this function. If they wish to do so, they can provide any comments or further information they would like to be considered as part of the review.

PART 4: INSIGHTS AND OBSERVATIONS

- 4.1. We issued a report in 2019 providing an overview of the Defence abuse reporting function.¹⁸ At that time we reported that the reports of abuse we were receiving were largely about historical abuse and demonstrated similar patterns to the findings of the DART and the Royal Commission into Institutional Responses to Child Sexual Abuse, in relation to the locations at which the abuse occurred, the types of abuse experienced, and those groups or areas which were particularly vulnerable.
- 4.2. In this report overall, we have seen an increase in the number of reports of abuse since the function commenced in December 2016, with the largest number of reports received in 2022. While some of the trends in reports were again similar to the findings of the DART, we have seen different types of abuse experienced and different types of reportees coming forward. In particular, we have observed there have been more and different types of hazing and initiation practices reported to us compared with the DART, more reports of abuse based on race, religion and sexual orientation, a small increase in sexual abuses cases reported by men and occurrences of abuse reported by women were disproportionately higher than their representation in Defence.
- 4.3. The DART reported the following types of abuse:
- sexual abuse was experienced in 38% of all cases of abuse reported
 - 48% of all cases involved physical abuse
 - bullying and harassment was the most commonly reported form of abuse, experienced in 66% of all cases.¹⁹
- 4.4. Of the 2911 reports to the Reparation Scheme that were closed as at 30 June 2023, the reports collectively included at least:
- 1789 occurrences of bullying and harassment
 - 1319 occurrences of physical abuse
 - 1227 occurrences of sexual abuse.²⁰

¹⁸ Commonwealth Ombudsman, [Overview of the Defence abuse reporting function by the Defence Force Ombudsman](#) [PDF 1245KB], August 2019.

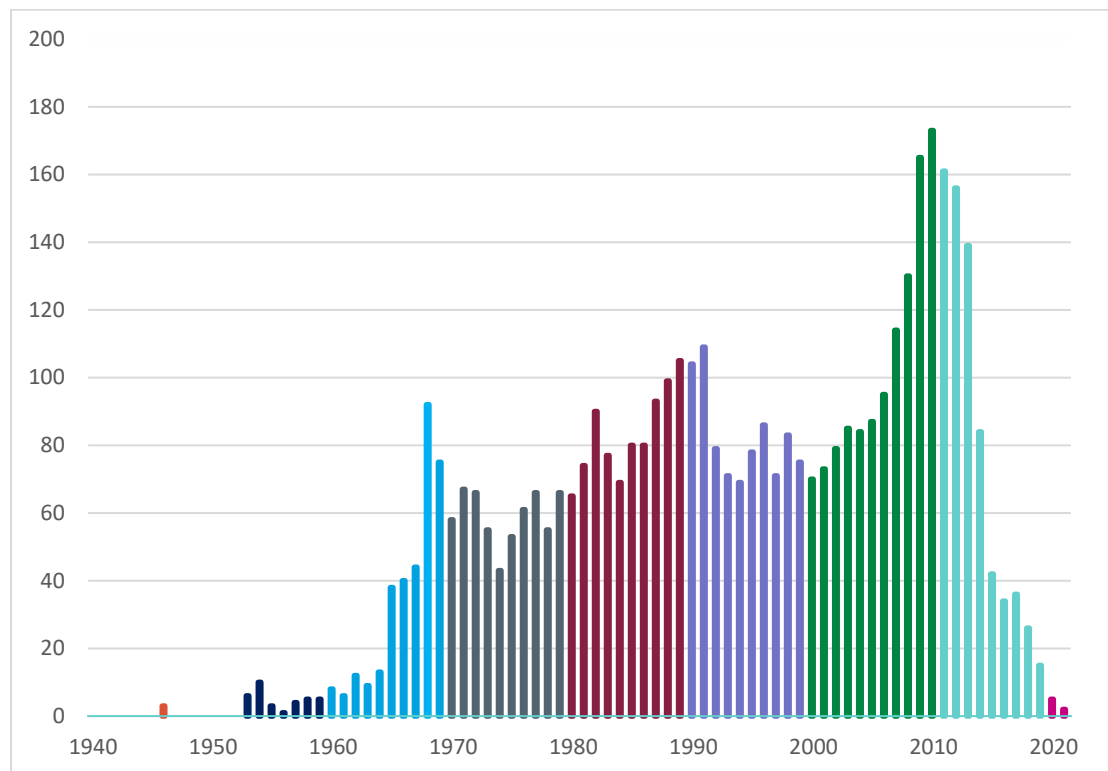
¹⁹ Defence Abuse Response Taskforce, *Report on abuse in Defence – Reading Guide*, 2014, pp 5-7.

²⁰ See definition of ‘occurrence’ in Appendix.

Defence Abuse Reparation Scheme – Insights and observations

- 4.5. The DART reported that in all services, the highest number of complaints of abuse it received related to abuse that occurred during the 1970s and 1980s.²¹ In contrast, we have seen more reports of abuse that occurred in the 2000s with the highest levels of abuse occurring in the years from 2009-2012. It is possible this is because the majority of older cases were reported to the DART (and there were less to report to the Reparation Scheme). It is also possible that more people felt comfortable coming forward to the Reparation Scheme noting over 10 years have passed since the cut-off date for reports to the DART (11 April 2011) and there has been more public discussion and awareness of abuse occurring in institutions, such as Defence. We note the drop-off in the abuse occurrences from 2014 onwards aligns with the 30 June 2014 cut-off date for occurrences of abuse to be eligible for reparation.

Figure 9: Occurrences of abuse reported by decade from closed reports received up to 30 June 2023

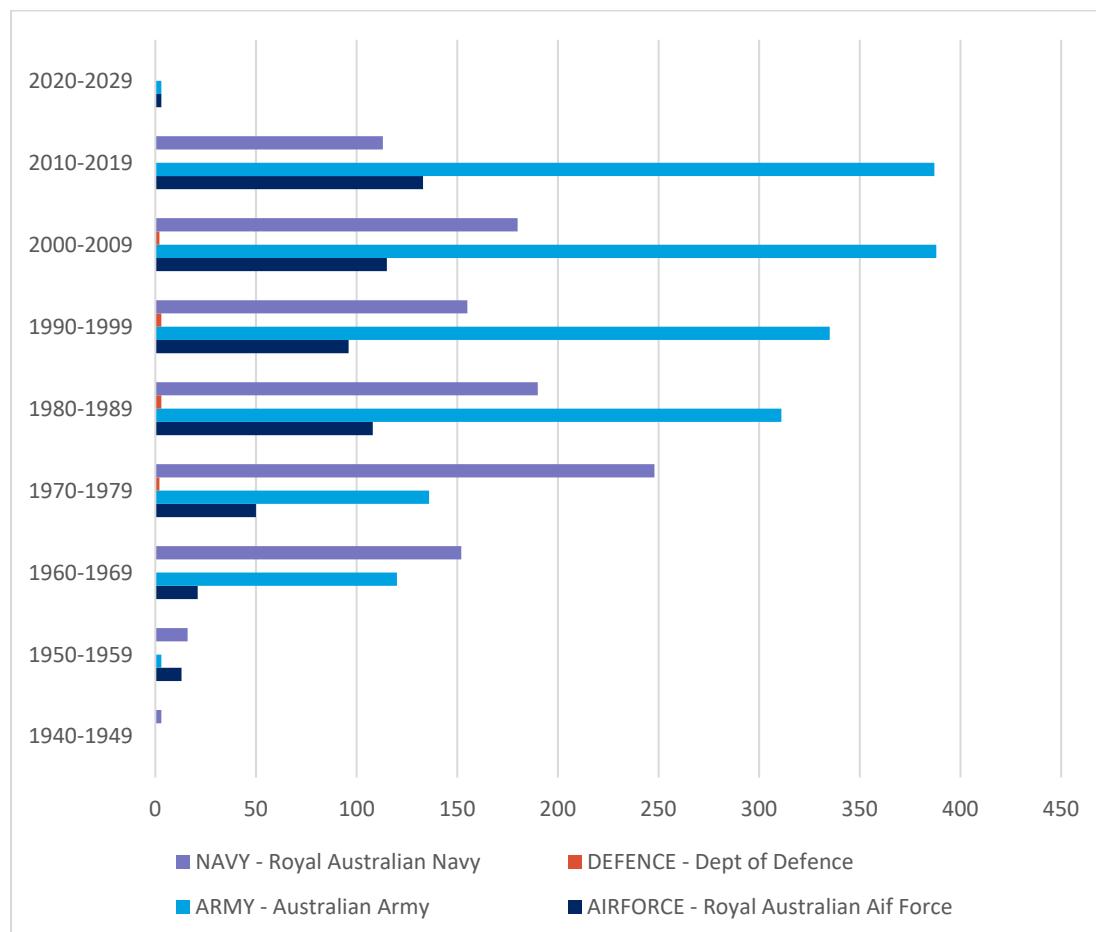


²¹ Defence Abuse Response Taskforce, *Report on abuse in Defence – Reading Guide*, 2014, p 4.

Defence Abuse Reparation Scheme – Insights and observations

- 4.6. Similar to the DART, we found overall the highest number of reports of abuse occurred within the Army. Most reports related to the Army in the 1980s, 1990s, 2000s and 2010s. Currently and historically, the Army has comprised the largest proportion of personnel in Defence. The Navy had the most reports of abuse occurring in earlier decades of 1960s and 1970s.

Figure 10: Occurrences of abuse reported by service by decade from closed reports received up to 30 June 2023



- 4.7. We have also seen a different type of reportee from those that reported to the DART, possibly due to broader changes in society, which, anecdotally, may be due to:
- more females reporting abuse
 - it has become more socially acceptable to openly discuss abuse
 - people are more aware of what types of behaviour constitute abuse.

Abuse of those who are new or different

- 4.8. Anecdotally, staff administering the Reparation Scheme have observed receiving more reports (compared to the DART) related to abuse directed at people serving in Defence who were new or considered 'different'. Being 'different' often related to sexual orientation (or being perceived to be homosexual), race, religion and physicality as well as other seemingly insignificant differences such as wearing glasses or which state in Australia a person was born. Reportees have also described being targeted due to other attributes which marked them out as 'different', including their workplace performance – both for excelling at their work and for perceived inadequacies in their work.
- 4.9. Most of these behaviours were reported to us as occurring prior to or during the period of the DART and therefore could have been reported to the DART at the time. In some reports received, the abuse occurred after the DART's April 2011 cut-off date.

Hazing and initiation practices

- 4.10. We have received reports of specific types of hazing and initiation practices that were not reported to the DART. We have not attempted to set out an exhaustive list of hazing and initiation practices that have been reported to the DFO for the purposes of this report as there are many examples that have been reported both to the DART and the Reparation Scheme and further examples could emerge as we continue to assess reports of abuse.
- 4.11. Hazing and initiation practices can fall into all 3 categories of serious abuse: sexual abuse, serious physical abuse and serious bullying or harassment.
- 4.12. Previous reports and inquiries have commented on these types of practices, noting that:
- While there is limited research directly examining the correlation between increased risk of suicide and unacceptable behaviour within the military, particularly the ADF, trauma and post-traumatic stress, which are known risk factors for poorer mental health, mental ill health and suicidal behaviour, have been linked to experiences of sexual abuse, bullying and hazing.²²
- 4.13. There is no direct evidence to explain why we have received reports of different types of hazing and initiation practices compared with those reported to the DART. However, it does raise the question of whether these new and different types of hazing and initiation practices have now been recognised by those who experienced them as being beyond any acceptable levels of initiation into Defence and therefore constitute abuse.
- 4.14. Outlined below are 2 examples of hazing and initiation practices that are particularly powerful descriptions of the types of abuse that occurred and which also included involvement of Defence leadership.

²² Australian Government, *Preliminary Interim Report: Interim National Commissioner for Defence and Veteran Suicide Prevention*, 2021, p.77.

Example: Hazing and initiation practice – ‘Blurting’

Throughout the course of the Reparation Scheme, we have had reports of many more specific hazing and initiation practices that were not reported to the DART – in particular, blurting. Blurting is an initiation practice involving a member being held down on the ground by others while the perpetrator (often a member of rank) pulls down their pants and sits on the member’s face, wiping/grinding his anus on the person’s nose and mouth. Usually performed after the offender had just defecated or after days or weeks of being out bush and not washing and resulted in faeces being smeared on the victim’s face, specifically in their mouth and up their nose. In most instances the act is witnessed by many other people and on some occasions the abuse was recorded on cameras. Some reportees said they suffered ongoing bullying and harassment after the incident as their colleagues tormented them about the blurting.

The impacts of blurting on individuals are serious and traumatic. This is seen through descriptions provided in reports by individuals of their experiences. Reportees have described that they felt absolutely violated and humiliated by the act of blurting and had ongoing feelings of helplessness, anger and betrayal by their colleagues, including their superiors. They suffered long term mental health issues, including depression and anxiety.

Reportees have said they did not report the abuse because it was considered a common hazing practice (particularly for new recruits) or their superiors were involved in the blurting and complaining about it may have attracted more attention, such as further bullying.

Blurting was reportedly a common practice among Airfield Defence Guards (ADG) in Airfield Defence Squadrons in the 1980s and early 90s. Blurting was officially banned at the end of 1994 after the practice was reportedly investigated and classed as a form of sexual abuse. We note that a small number of reports that included blurting related to abuse that occurred after 1994.

Example: Hazing and initiation practice – ‘Birthday belly slapping’

Our Office received a number of reports describing abusive hazing practices carried out to commemorate particular milestones, such as birthdays. Among these reports, multiple reportees described being subjected to ‘birthday belly slaps’ on the day of their birthday, a practice which appears to have developed as a tradition, or initiation, in certain units. The majority of reports detailing this practice described the abuse occurring at Robertson Barracks in the 2000s and early 2010s, although the practice has been reported at other Army Barracks.

The ‘tradition’ of birthday belly slaps involves a male member being forcibly grabbed and restrained, usually by a group of their peers, and sometimes under the supervision or instruction of a Corporal. The member had his shirt removed or pulled up, or overalls ripped open, and was slapped on the stomach for each year of their lives by one or more perpetrators. Commonly, reportees described a liquid being poured onto their stomach before the blows were delivered. This included water, alcohol, ‘Deep Heat’ ointment or vehicle oil, in an apparent effort to make the slaps more painful or force the skin to split.

As a result of these repeated slaps, reportees described experiencing a number of injuries including raised welts, bruising, bleeding as a result of split skin, and breathing difficulties, often lasting multiple days or up to a week following the incident of abuse itself. Accounts of ‘birthday belly slaps’ vary to some degree, with some reportees describing being blindfolded during the abuse or having a bag placed over their head. Additionally, while many reported ‘birthday belly slaps’ as isolated acts of abuse, others described the practice being coupled with other acts of abuse such as being bullied, sprayed with a firehose, being physically restrained with zip-ties, having a broomstick forced into the arms of overalls (which are then ripped open), or forced into an equipment cage. Our Office has received photographic evidence of the immediate physical impact of this practice. Another variation on this practice is ‘pink belly’, which is the same practice, but unconnected to a birthday ritual.

This hazing practice, together with other abuse experienced by the reportee, often resulted in long-term symptoms of anxiety and depression.

Abuse relating to discrimination

- 4.15. Anecdotally, we have received more reports (compared with the DART) of abuse based on discrimination against members due to their sexual orientation (post 1992) or based on racial or religious grounds or physical difference. Abuse relating to discrimination can be sexual abuse, serious physical abuse, serious bullying or harassment and is based on conduct that amounted to discrimination on the basis of an attribute recognised by Australian anti-discrimination law.
- 4.16. Up until 1992 Defence still had a policy where openly gay or lesbian personnel serving in the Defence Forces were banned. Detection of homosexuality (sometimes through surveillance or intimidation) could result in a compulsory discharge. When the Government abolished the ban in 1992 it was met with resistance from within Defence. While the policy no longer existed after 1992, what we have seen reported to the Reparation Scheme may indicate an ongoing pattern of some Defence members ‘taking matters into their own hands’ and not accepting members where there was a question about their sexuality post-1992.
- 4.17. Abuse based on racial or religious grounds was also reported to the Reparation Scheme and often involved a campaign of targeted behaviour either by an individual or multiple perpetrators or by higher ranking members. Individuals who were targeted included people from a variety of backgrounds including First Nations people and people with multicultural heritage including from Asian, European and North American countries. Such abuse can have negative effects on a person’s mental health, such as extreme anxiety and depression and thoughts of suicide.
- 4.18. It is possible we have received more reports of abuse based on discrimination compared with the DART because over time it has become less socially acceptable to discriminate against someone based on race or religion. Some reportees also noted that they observed in recent years there had been a shift in Defence with more inclusion and diversity including relating to recruitment programs but for many of them, this was too late. Those who experienced this type of abuse historically may be more comfortable coming forward in the last 5 years that the Reparation Scheme has been operating.
- 4.19. Outlined below are 2 summaries of case studies of reports of abuse based on discrimination that describe the types of abuse endured by Defence members who were considered ‘different’ for a variety of reasons.

Example: Abuse relating to sexual orientation (post-1992)

Despite the ban on openly gay or lesbian personnel serving in the Defence Forces being abolished in 1992 by the Australian Government, we have received many reports to the Reparation Scheme of serious abuse being perpetrated on individuals due to their sexual orientation post-1992.

Reportees have described many instances of targeted campaigns of sexual abuse, serious physical abuse and serious bullying and harassment due to their sexual orientation. This included intimidation, being targeted, singled out and subjected to homophobic abuse and slurs about sexual preferences such as 'fag', 'homo' and 'poofter'. Others experienced extreme violence including having a knife held to their throat and strangulation as well as sexual assault.

Other reportees said they felt like they had to appear to be heterosexual so as not to suffer any further than they already were and were not able to 'come out' to family and friends as they felt it would make their lives even more difficult. In other instances, reportees said they were involuntarily 'outed' by their colleagues.

The impact on individuals included feelings of worthlessness, anxiety and depression resulting in lifelong conditions such as post-traumatic stress disorder, chronic alcoholism, addiction to gambling and relationship breakdowns.

Reportees often said they did not report the abuse as they feared for their safety or were concerned they would suffer retribution by the perpetrator. Many reportees accepted this was the culture of Defence.

Example: Abuse relating to race or religion

Reportees have described many instances of targeted campaigns of sexual abuse, serious physical abuse and serious bullying and harassment due to their race or religion. This included racial abuse and slurs such as 'Abo', 'Boong', 'Coon', 'Gook', 'Yellow face', 'useless wog', 'dago'; campaigns of social exclusion; physical and sexual threats; physical beatings and sexual assaults. Some reportees said they were verbally abused and racially vilified almost daily over a number of years. Reports of abuse relating to race or religion have continued to include incidents occurring in the 21st century.

The impact this abuse had on individuals included physical injuries, as well as suffering feelings of worthlessness, severe anxiety, self-harm, depression and suicidal ideation. This often resulted in lifelong conditions such as post-traumatic stress disorder, alcohol use disorder, drug abuse and relationship breakdowns.

Reportees often said they did not report the abuse because the people they were expected to report it to - their superiors - were the individuals making the comments or laughing at them. Reportees recounted they were often told to get on with work and stop complaining. Others said they were afraid to report the abuse because it would have made them even more of a target.

Sexual abuse against men

- 4.20. From the commencement of our Defence abuse reporting function to 30 June 2023, we received 3685 reports of abuse from current or former male members of the Defence, representing 74% of the total reports received. Of these reports, 2206 reports (60%) have been closed with the remaining reports under assessment as at 30 June 2023.
- 4.21. Many reports made by male current or former Defence members were in relation to more than one type of abuse, with bullying and harassment the most prevalent type of abuse reported. Of the 2206 reports that have been closed as at 30 June 2023, the reports collectively included at least: 1401 occurrences of bullying and harassment, 1259 occurrences of physical abuse and 850 occurrences of sexual abuse.²³
- 4.22. We have seen a higher proportion of males reporting sexual abuse that occurred both historically and since the year 2000 than was reported to the DART.
- 4.23. The DART reported that 63% of all sexual abuse cases were experienced by men and 37% were experienced by women.²⁴ Of all sexual abuse cases between 2000 and 2011, the DART reported that 25% of cases were experienced by men and 75% were experienced by women.²⁵
- 4.24. Data collected under the Defence abuse reporting function to date shows that, of all reports involving sexual abuse received and closed as at 30 June 2023, 69% were reported by males and 31% reported by females.²⁶ This is a small increase of 6% reported by men compared to the DART.

²³ See definition of 'occurrence' in Appendix.

²⁴ Australian Government, *Defence Abuse Response Taskforce - Final Report*, Graph 11, Page 74.

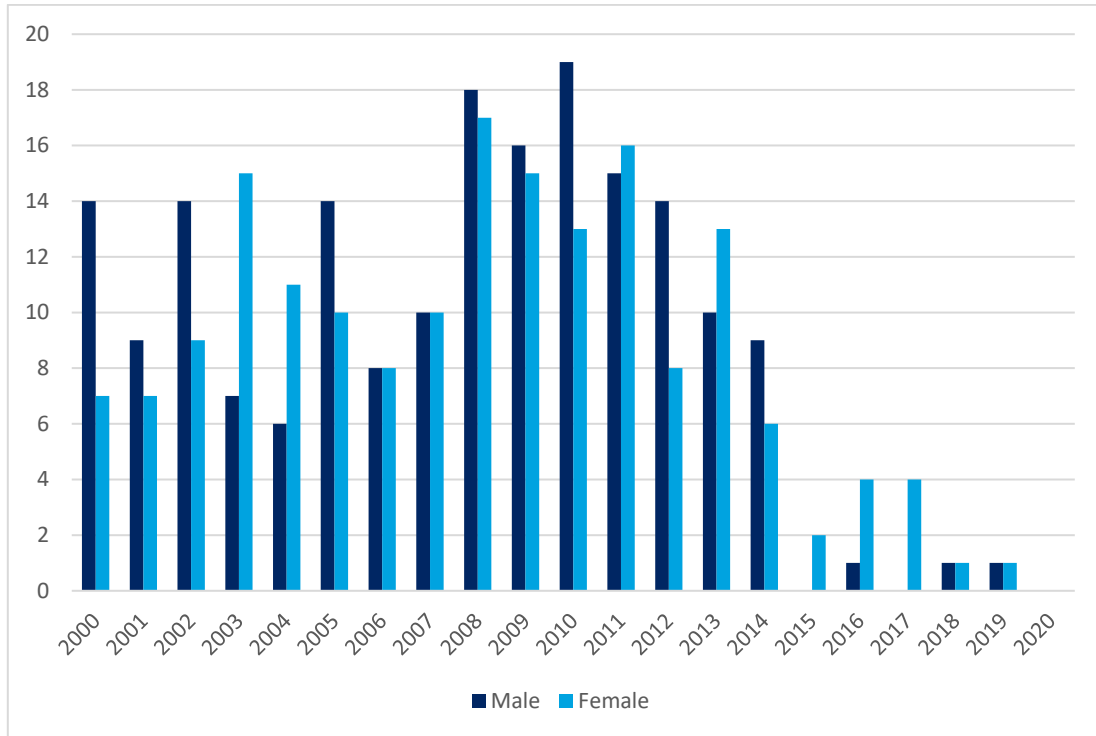
²⁵ Australian Government, *Defence Abuse Response Taskforce - Final Report*, Graph 47, Page 92.

²⁶ These figures do not include reports that have been made that were still undergoing assessment as at 30 June 2023 or were found to be out of jurisdiction.

Defence Abuse Reparation Scheme – Insights and observations

- 4.25. A significantly larger increase is seen in the proportion of sexual assault included in reports made by men relating to occurrences of abuse that occurred on or after 1 January 2000 compared to the DART. Here data shows that males made 52% of reports closed as at 30 June 2023, compared to women at 48%. This is an increase of 27%.²⁷

Figure 11: Reports of sexual abuse closed as at 30 June 2023 involving occurrences of abuse on or after 1 January 2000 by gender



- 4.26. No direct causation can be determined at this time while assessment of reports received under the Reparation Scheme is ongoing to fully explain the increase in the proportion of sexual assault reports made by men under the Defence abuse reporting function compared to the DART.
- 4.27. However, it is noted that the DART closed to reports on 11 April 2011, more than a decade earlier than the closure of the Reparation Scheme to reports. It is undeniable that as a society we have seen during the past decade, an increased visibility and acknowledgement of sexual abuse, its effects and many different forms.
- 4.28. Further research may find that this is a contributing factor to why we have seen an increase in men reporting sexual abuse proportionate to women, compared with the DART. In particular, whether this is reflective of a growing level of acceptance over time of men reporting this type of abuse and/or a recognition that sexual abuse can take many different forms.

²⁷ These figures do not include reports that have been made that were still undergoing assessment as at 30 June 2023 or were found to be out of jurisdiction.

Example: Sexual abuse reported males regarding occurrences of abuse since 1 January 2000

Incidents of sexual assault reported by males as occurring since 1 January 2000 varied from indecent acts to penetrative sexual assault. Some reportees experienced sexual abuse as part of various hazing and initiation practices such as 'Crossing the line' ceremonies commemorating a sailor's first crossing of the Equator and 'Larry the magpie' a 'game' where people would form the shape of a beak with their hand and attempt to grab another person's penis.

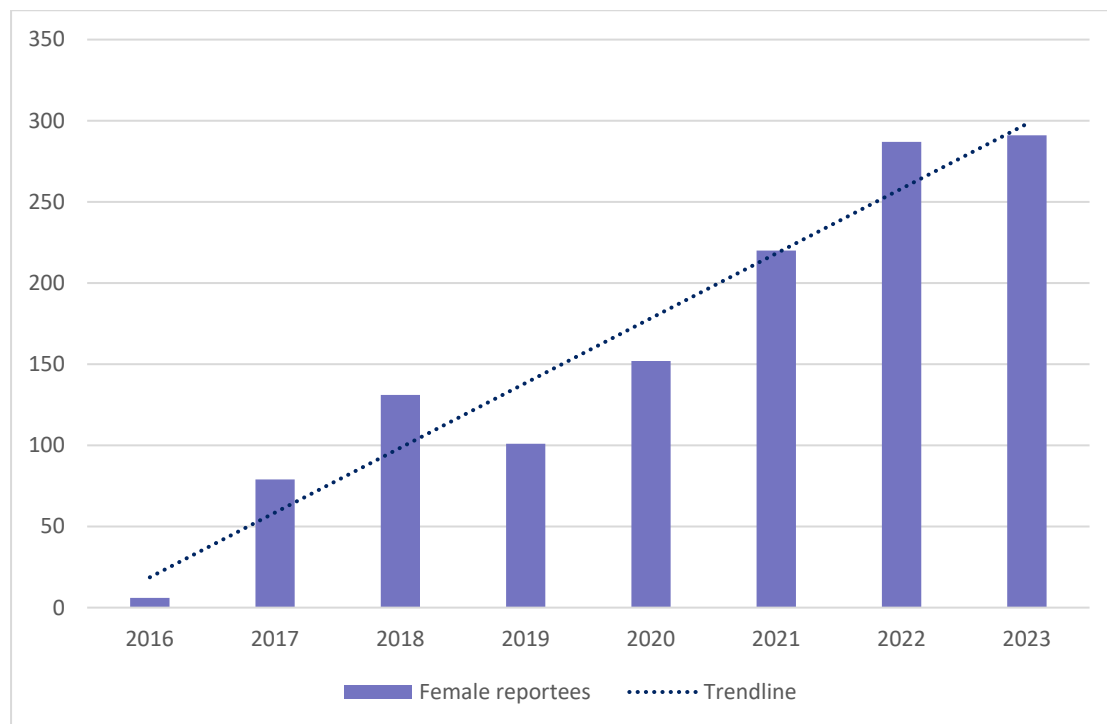
In some instances, it was alleged that the abuse was perpetrated by Defence members more senior in rank to the reportee or was otherwise witnessed and ignored by senior officers. Reportees described some of the incidents as culturally 'normal' and spoke about fear that reporting would lead to further targeting. Some reportees also felt that when a complaint was made it was dismissed or not actioned.

Reportees told us that their experiences of incidents of sexual abuse affected them emotionally and physically, in some instances leading to drug use, mental health problems and difficulty sleeping. Such experiences were also reported to impact employment and relationships with some reportees finding it difficult to hold down employment and feeling disconnected from friends and family.

Reports of abuse against women

4.29. From the commencement of our Defence abuse reporting function to 30 June 2023, we received 1267 reports of abuse from current or former female members of Defence, representing 26% of the total reports received. Of these reports, 700 reports (55%) have been closed with the remaining reports under assessment as at 30 June 2023.

Figure 12: Reports of abuse received from female reportees as at 30 June 2023



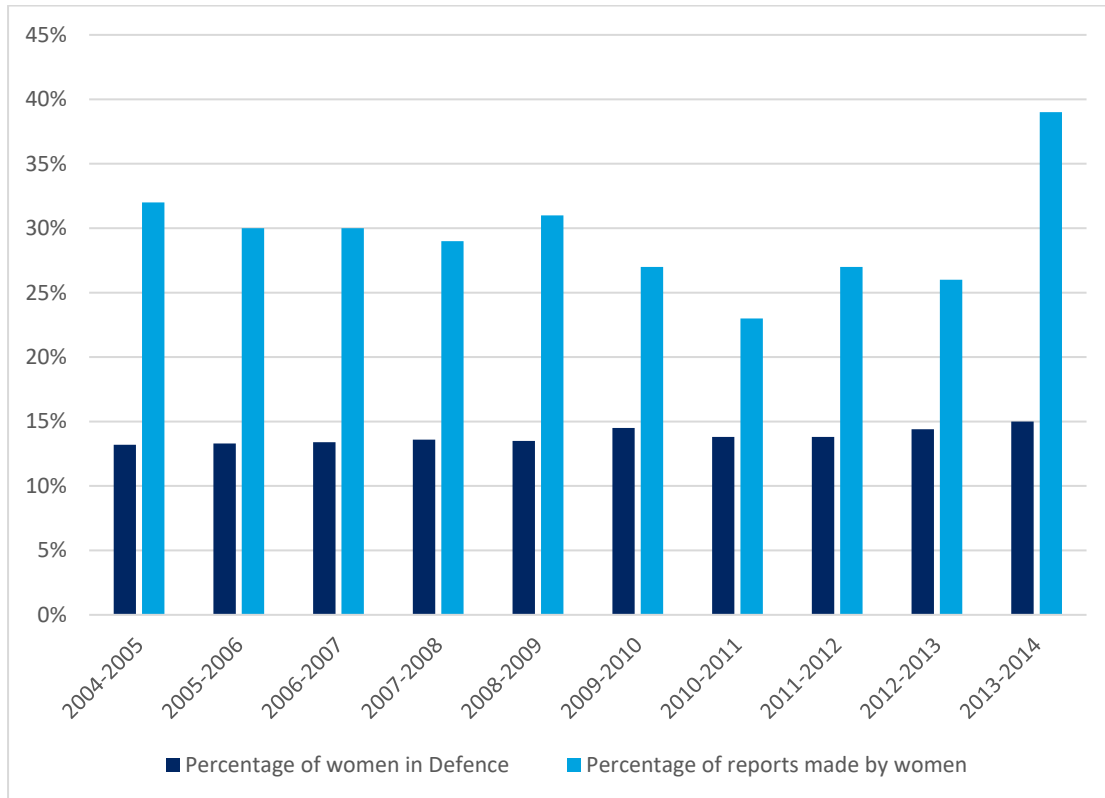
4.30. Many reports made by female current or former Defence members (excluding APS) were in relation to more than one type of abuse, with bullying and harassment the most prevalent type of abuse reported. Of the 700 reports closed as at 30 June 2023, the reports collectively included at least:²⁸ 385 occurrences of bullying and harassment, 376 occurrences of sexual abuse and 59 occurrences of physical abuse.

²⁸ See definition of ‘occurrence’ in Appendix.

Defence Abuse Reparation Scheme – Insights and observations

- 4.31. From our review of reports closed as at 30 June 2023, we found that occurrences of abuse reported by women were disproportionately higher than their representation in Army, Navy and Air Force. We compared the percentage of females in the Army, Navy and Air Force each financial year between 1 July 2004 and 30 June 2014 to the percentage of reports to us involving occurrences of abuse that occurred in each financial year reported by women.²⁹ We found that the percentage of reports was consistently higher than the participation rate of females in Army, Navy and Air Force.

Figure 13: Percentage of women in Army, Navy and Air Force each financial year between 1 July 2004-30 June 2014 compared to percentage of reports closed as at 30 June 2023 made by women involving occurrences of abuse that occurred in each financial year³⁰



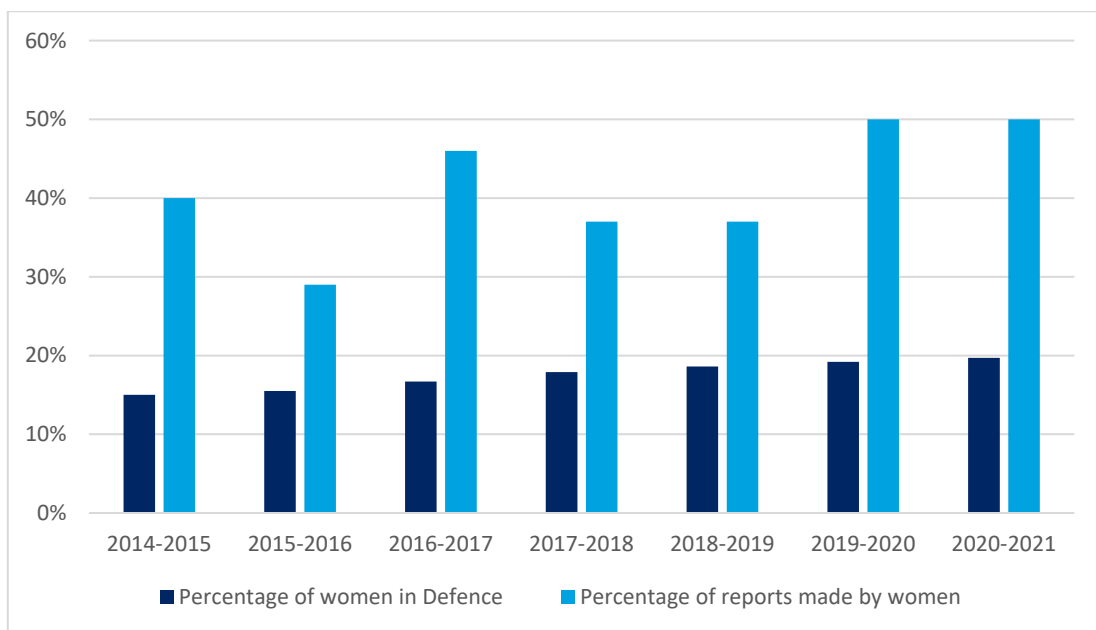
²⁹ See definition of 'occurrence' in Appendix.

³⁰ 2004-2005 data source – Department of Defence, [Annual Report 2004-2005](#), p.98; 2005-2006 data source – Department of Defence, [Annual Report 2005-06](#), p.281; 2006-2007 data source – Department of Defence, [Annual Report 2006-07](#), volume 1, p 214; 2007-2008 data source – Department of Defence, [Annual Report 2007-2008](#), p 169; 2008-2009 data source – Department of Defence, [Defence Annual Report 2008-09](#), volume 1, p 198; 2009-2010 data source – Department of Defence, [Defence Annual Report 2009-10](#), volume 1, p 344; 2010-2011 data source – Department of Defence, [Defence Annual Report 2010-11](#), volume 1, p 273; 2011-2012 data source – Department of Defence, [Defence Annual Report 2011-2012](#), p 286; 2012-2013 data source – Department of Defence, [Defence Annual Report 2012-2013](#), p 142; 2013-2014 data source – Department of Defence, [Defence Annual Report 2013-14](#), volume 1, p 54.

Defence Abuse Reparation Scheme – Insights and observations

- 4.32. While numbers of reports involving occurrences of abuse post 30 June 2014 (the end date for eligibility to be considered for a reparation payment) are small, we also found that the reports closed as at 30 June 2023 made by women involving occurrences of abuse occurring between 30 June 2014 and 30 June 2021 were disproportionately higher than their representation in Army, Navy and Air Force.³¹ We compared the percentage of females in Army, Navy and Air Force each financial year between 1 July 2014 and 30 June 2021 to the percentage of reports to us involving occurrences of abuse that occurred in each financial year reported by women.³² We found that the percentage of reports was consistently higher than the participation rate of females in Army, Navy and Air Force.

Figure 14: Percentage of women in Army, Navy and Air Force each financial year between 1 July 2014-30 June 2021 compared to percentage of reports closed as at 30 June 2023 made by women involving occurrences of abuse that occurred in each financial year³³



- 4.33. Further analysis of this data set following finalising assessment of all remaining reports may illuminate more insights regarding the cause of this overrepresentation. At this stage, there is insufficient information to confirm whether women have experienced abuse at a proportionately greater rate than men. Numerous factors may be reflected here potentially including women being more likely to report abuse.

³¹ For the 2019-2020 financial year, a total of 6 reports were made involving occurrences of abuse occurring in this financial year, of which 3 were reported by a female. For the 2020-2021 financial year, a total of 2 reports were made involving occurrences of abuse occurring in this financial year, of which 1 was reported by a female.

³² See definition of 'occurrence' in Appendix.

³³ 2014-2015 data source – Department of Defence, [Annual Report 2014-15](#), volume 1, p 147; 2015-16 data source – Department of Defence, [Annual Report 2015-2016](#), p 106; 2016-2017 data source – Department of Defence, [Annual Report 2016-17](#), p 111; 2017-2018 data source – Department of Defence, [Annual Report 2017-18](#), p109; 2018-2019 data source – Department of Defence, [Annual Report 2018-19](#), p 114; 2019-2020 data source – Department of Defence, [Annual Report 2019-2020](#), p 103; 2020-2021 data source – Department of Defence, [Annual Report 2020-21](#), p 105.

Example: Abuse against females

Reports of abuse made by women were predominately regarding incidents of sexual abuse or bullying and harassment, with a small percentage of reports involving incidents of physical abuse.

In some instances, women reported to our Office that they did not report or make a complaint about the abuse at the time it occurred due to reasons including not knowing who to talk to, being discouraged from making a report out of fear it would impact their career and/or reputation, out of fear of retaliation, or feelings of embarrassment or being ashamed.

Where complaints were made, some women reported that they were subjected to ongoing abuse, victimisation and bias. Women also reported concerns regarding delays with the complaint handling process and a lack of communication regarding the outcome of the complaint. Some women felt that the action taken in response to their complaint was insufficient.

Common effects of experiences of abuse reported by women included chronic pain, insomnia and ongoing mental illness and health concerns such as stress, anxiety, depression and post-traumatic stress disorder. Women also reported experiencing ongoing trust issues, ongoing impacts on relationships, and changes to personality as a result of the abuse.

Types of abuse still being reported – post-30 June 2014

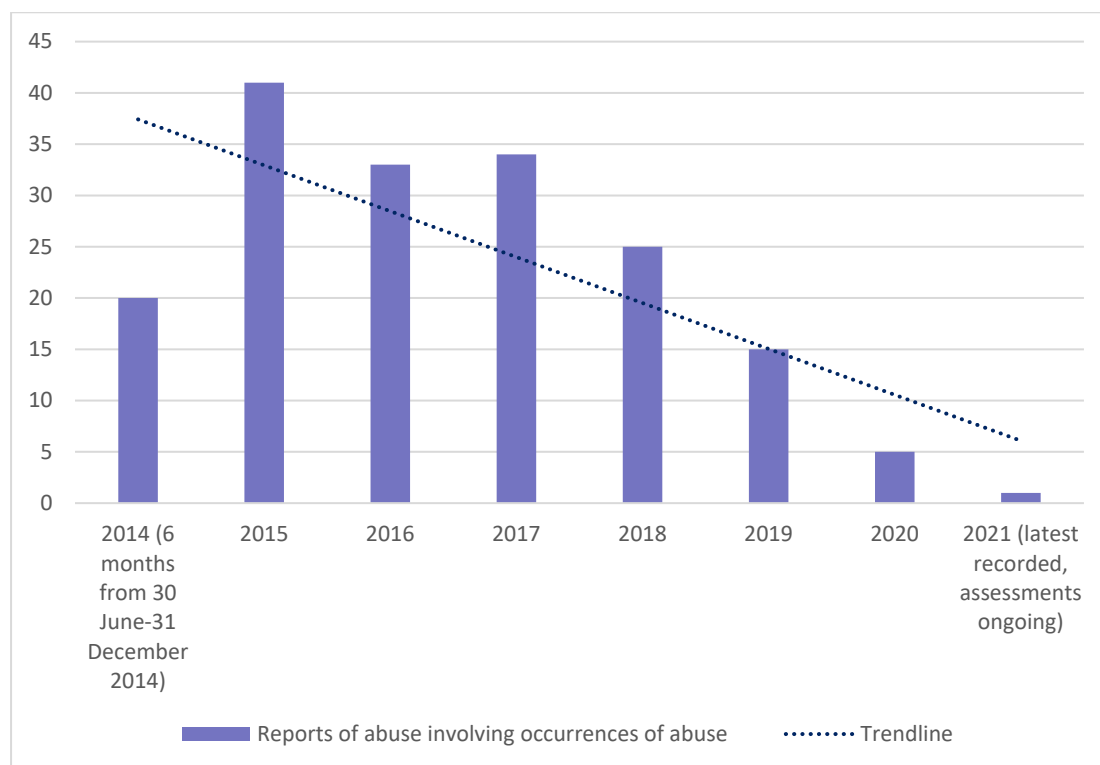
- 4.34. We have continued to receive reports of abuse that occurred after 30 June 2014 and therefore are not eligible for a reparation payment (although could still be considered for the RE program and facilitated referrals to counselling).
- 4.35. Of 149 reports closed as at 30 June 2023, the reports collectively included at least:³⁴ 66 occurrences of bullying and harassment, 19 occurrences of sexual abuse and 6 occurrences of physical abuse. Eighty-one reports were not considered to have met the threshold of serious abuse and therefore were assessed as ‘out of jurisdiction’.
- 4.36. Of 149 reports closed as at 30 June 2023, there has been a downward trend in reports of abuse being made that related to abuse that occurred after 30 June 2014. At the highest, there were 41 reports that included abuse that occurred in 2015 and only 5 reports that included abuse that occurred in 2020 and 1 report that included abuse that occurred in 2021.

³⁴ See definition of ‘occurrence’ in Appendix.

Defence Abuse Reparation Scheme – Insights and observations

- 4.37. One possible reason for this downward trend in reports of abuse post-30 June 2014 could be the fact that reparation payments were not available for reports of abuse that occurred after 30 June 2014. It may not mean that abuse was not occurring after this date. However, we cannot conclusively determine causality at this stage.

Figure 15: Reports of abuse involving occurrences of abuse post-30 June 2014, from reports closed as at 30 June 2023



Challenges of the Defence Abuse Reparation Scheme

Establishment of the Reparation Scheme

- 4.38. During the process of drafting the Regulations, some challenges were presented in interpretation of the function of the Reparation Scheme and its remit.
- 4.39. For example, initially there was a proposal for only one level of payment for recommendation set out in the Regulations being \$45,000 for the most serious forms of abuse. The most serious forms of abuse may 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.
- 4.40. The DFO proposed a second tier payment of \$20,000 (in addition to the first tier payment of \$45,000) to acknowledge other serious abuse that involved unlawful interference, accompanied by some element of indecency, which Defence agreed to and was subsequently included in the Regulations.
- 4.41. As is common when implementing any new legislative function, we also encountered differences in interpretation of certain concepts in the Regulations, such as which reports of abuse related to sexual harassment or discrimination, for which we received advice and guidance from the Australian Government Solicitor.
- 4.42. With the maturity of assessment processes and the substantial body of assessment decisions made in a 5 year period, we have successfully worked with Defence to resolve any differing opinions in the interpretation of the legislation, while maintaining our independence as an impartial agency tasked with the delivery of the Reparation Scheme.

Regulations do not include definitions

- 4.43. There is no explicit definition (or list of examples) of the required connection between the occurrence of abuse and the individual's employment with Defence. As stated above, the DFO adopted the view at the commencement of the Defence abuse reporting function in December 2016, that its role is to address matters of Defence culture, that is, reports of abuse that have a connection to Defence as an institution and for which Defence could be said to have some degree of control, accountability or responsibility.
- 4.44. When assessing abuse that occurred in connection with a reportee's employment in Defence we are also guided by the understanding that Defence, as an institution, cannot be held responsible for all abuse that occurs in social settings outside of the workplace, even when the reportee and the alleged abuser were both serving members of Defence at the time the abuse occurred. This meant that the jurisdiction does not cover conduct which occurs in a multitude of scenarios which has been difficult for reportees to understand and accept.
- 4.45. For example, generally abuse occurring within a domestic or intimate relationship will not be accepted to be in jurisdiction. In reaching this view we will carefully consider whether the reportee and the alleged abuser had a personal relationship that extends beyond their work in Defence, and whether the alleged abuse occurred within the context of their relationship or after the relationship has ended, and where the abuse occurred.

Defence Abuse Reparation Scheme – Insights and observations

- 4.46. Other examples of abuse that may not be considered covered by the Reparation Scheme include, abuse that occurs in a private residence, hotel, nightclub, private vehicles (including taxis), trains or buses. This includes when a reportee is on 'shore leave' and participating in an informal social interaction. In most of these cases, these occurrences of abuse occurred off-base with no evident chain of command relationship between the reportee and the abuser and there is no clear workplace connection surrounding the context of the abuse. However, this is not an exhaustive list and each matter is decided on its merits.
- 4.47. For those matters that are considered not within the DFO's jurisdiction, there are other avenues for reportees to pursue, e.g. the NRS, Department of Veterans' Affairs (DVA) and civil action. If serious abuse occurs (for example, a sexual assault, or a serious physical assault), it is open to the individual to report this to civilian police.

Expectations of reportees

- 4.48. In many instances, reportees have expressed their appreciation and gratitude for the outcomes they have obtained under the Reparation Scheme. In some instances, however, reportees have been disappointed that the outcome they had hoped for was not possible. Anecdotally, it seems this disappointment often arises from a lack of understanding regarding the discretionary nature of the Reparation Scheme and a mistaken belief that the reportee was entitled to a reparation payment. This expectation of reportees was observed by staff particularly in responses from reportees (or their authorised representative) to adverse decisions. It has commonly been seen when a person is making a claim to the DVA at the same time as reporting to the Reparation Scheme. The DVA's terminology and scope includes the word 'entitlement', which is often the cause of confusion for a reportee applying to both.
- 4.49. Our ability to make a recommendation for a reparation payment focuses on whether the abuse suffered reflects 'the most serious forms of abuse.'³⁵ The reparation element of our function is designed to focus on the nature of the abuse suffered not the impact of the abuse, which can vary significantly for different people. The Reparation Scheme has not led to a reparation payment for every person who has been impacted by abuse. We have seen that this been a concept that has been difficult for reportees to understand. While some forms of abuse may not meet the threshold for a reparation payment, the DFO acknowledges that any abuse can have a significant impact on the individual and should not have happened.
- 4.50. As stated above, the decision to recommend a payment or not, and if so, in what amount, is a discretionary decision. The discretion must be exercised in accordance with the requirements of the Regulations and there are no distinct 'eligibility' criteria which, if satisfied, dictates the recommendation of a particular payment. Rather, the decision-maker considers all the circumstances of individual reports and decides accordingly.

³⁵ Reg 14A of the Ombudsman Regulations 2017.

Defence Abuse Reparation Scheme – Insights and observations

4.51. These observed expectations of reportees in some cases could indicate that the Reparation Scheme itself was not well understood by all reportees despite attempts made by the DFO to raise public awareness of the DFO role and to communicate specific information about the Reparation Scheme and its cut-off dates, as discussed above. This is not a universal observation, while some reportees may not have understood the discretionary nature of the Reparation Scheme, many others were aware of the Reparation Scheme, understood its parameters and were grateful that there was a channel through which they could report historical abuse.

Withdrawn reports

4.52. As at 30 June 2023, 111 reports were withdrawn by reportees. This is 2% of the total reports received. Some of these reports were withdrawn after the reportee was advised that they did not meet certain thresholds or parameters of the Reparation Scheme. For example, almost half of these reports were withdrawn due to no reparation payment being available to the reportee for the following reasons:

- a payment had already been made to the reportee by the DART or the NRS
- the report concerned abuse occurring after 1 July 2014
- the report was received in 2022-2023 with no prior 'intent to report' notification.

4.53. In some circumstances, these reasons for withdrawn reports by a reportee are the same reasons upon which we would determine, at the 'pre-assessment' stage (before a report proceeds to a full assessment), that a report is 'out of jurisdiction'. The difference is that with a withdrawn report, the reportee has actively withdrawn their report after understanding their report does not meet the thresholds before it proceeds any further through our process.

4.54. Other reasons reportees withdrew their report included:

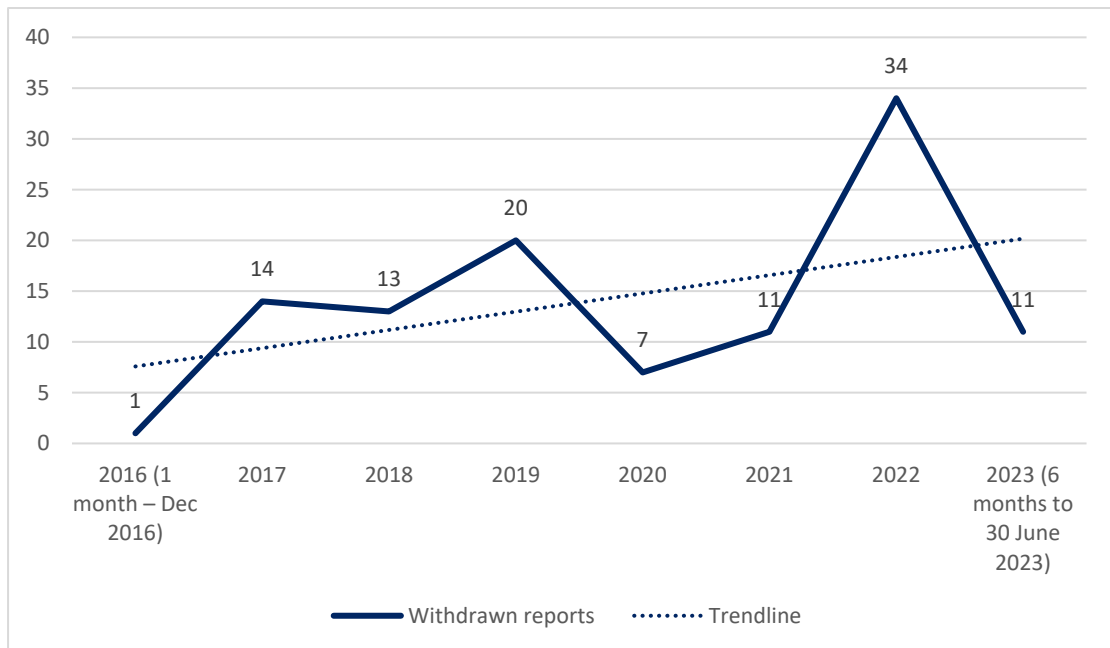
- the reportee decided to pursue alternative external channels (such as the NRS or DVA) or internal Defence channels to address their complaint
- the reportee wanted to pursue an administrative complaint with our Office rather than a report of abuse.

Defence Abuse Reparation Scheme – Insights and observations

4.55. In some cases, the reportee decided not to engage with the report further due to more personal reasons such as:

- having concerns that reliving the abuse through the reporting process would be too difficult and upsetting and/or the process was having a physiological impact and they wanted to try to move on
- having concerns regarding the potential longer-term impact the process would have on their mental health, particularly when they were already suffering from mental health disorders such as anxiety, depression and suicidal ideation. In some cases, reportees were advised by their psychiatrists or psychologists to withdraw their complaints unless and until they were in a better mental state to cope with the process.
- not being confident that the process would lead to any positive outcome for them personally or achieve what they wanted to achieve. In some cases, reportees had already been making complaints about the abuse for a long time – for example, through a previous internal process with Defence or given evidence at an external inquiry - which did not result in any satisfactory outcome for them.
- not wanting to name the perpetrators involved in the abuse.

Figure 16: Number of withdrawn reports by year – to 30 June 2023



Feedback on Reparation Scheme and RE Program

Defence Abuse Reparation Scheme

- 4.56. Over the duration of the Reparation Scheme to date, we have received feedback from reportees on an ad hoc basis regarding the process of making a report of abuse to the DFO. Anecdotally, reportees said:
- they felt a weight had been lifted off their shoulders
 - they felt the process was a step towards closure for them
 - they felt believed and validated by the process
 - they appreciated that what happened to them was considered ‘serious abuse’
 - they praised the DFO for having a dedicated liaison officer (single point of contact) at the time of making their report
 - they noted the professionalism, compassion, sensitivity and intelligence of DFO’s staff.
- 4.57. Other reportees, who perhaps did not receive the outcome they were seeking, said the following:
- the process was too long and frustrating with no positive outcome (if a payment was not recommended or received)
 - they were disappointed if our assessment was that the abuse was considered serious but not severe enough to attract a reparation payment
 - they felt saddened and upset if we considered their report out of jurisdiction. In some cases, some reportees noted that asking for a review of a decision only continued the difficulties of having to face the memory of abuse.

Restorative Engagement Program

- 4.58. For reportees who have participated in the RE program to date, feedback surveys were conducted with both the reportee and the Defence representatives soon after the RE conference had taken place.
- 4.59. Feedback from reportees demonstrates the most common reasons for participating in an RE conference was to:
- achieve healing in some way
 - receive an apology
 - contribute to preventing future abuse in Defence
 - contribute to cultural change
 - have their story of abuse meaningfully acknowledged by Defence.

Defence Abuse Reparation Scheme – Insights and observations

- 4.60. Some reportees decided not to pursue the RE program because they felt that an apology would not rectify the damage done to them by the abuse and that the person delivering the apology was not there and would not understand their own personal experience. Some reportees said they were only seeking an acknowledgment that the abuse occurred and that it was wrong (rather than an apology).
- 4.61. After the RE conferences were conducted, the majority of reportees felt that it was a very positive and constructive experience and the conference was conducted in a professional and respectful manner. Many reportees said they were satisfied with the outcome with some reporting they felt a sense of 'closure' or that it would contribute positively to their recovery. Many reportees also strongly agreed that Defence meaningfully acknowledged their story of abuse, strongly agreed the Defence representative was accountable for the abuse and expressed strong disapproval for what happened.
- 4.62. A very small number of reportees noted that while the experience was positive overall, they were not necessarily confident that it would lead to a commitment by Defence to changing and improving its culture. Others noted the long time it took to get through the process before the RE conference took place – in some instances this was an 18 month wait – and would have liked to have had their expectations about timing managed better. We note there were some delays with scheduling conferences and some of the reasons for that were due to travel restrictions during COVID.
- 4.63. Feedback from participating Defence representatives told us that participating in the RE conference will help them to better understand and respond to individuals reporting abuse in the future. Most said the experience affirmed their resolve to implement cultural change to eliminate abuse and positively impact their role as a senior officer in Defence.
- 4.64. A limitation of this feedback is that it was usually obtained from the participants within 24-48 hours of the RE conference taking place. We do not know if their feelings about the RE Program changed over time. Given we have not conducted a longitudinal study of the impacts of the RE program on reportees, we cannot yet say whether RE conferences contributed to long-term positive impacts on reportees or positive changes in the culture of Defence.

PART 5: CONCLUSIONS AND FUTURE ROLE OF DFO

- 5.1. The Reparation Scheme has now closed to new reports. We will continue to administer the Reparation Scheme until all reports of abuse received up to 30 June 2023 have been assessed, and for eligible reports, we will determine if a reparation payment recommendation is appropriate. There were 2055 reports open as at 30 June 2023.
- 5.2. We believe that our administration of the Reparation Scheme over the last 5 and a half years has provided valuable assistance to those who have experienced abuse in Defence. This report has provided an update on our administration of the Reparation Scheme to date. In summary:
 - we received 4966 reports of abuse over the life of the Defence abuse reporting function – this is more than double the number of reports of abuse that were made to the DART.
 - to date 1815 reparation payments have been made by Defence totalling over \$75m. Defence accepted 1814 of our recommendations in full and one recommendation was partially accepted.
- 5.3. While we expect the volume of reports of abuse to decline in the absence of a potential reparation outcome (almost half the reports withdrawn were due to no reparation payment being available), we will continue to provide an independent and external mechanism for reporting abuse for Defence members uncomfortable reporting internally within Defence through our Defence abuse reporting function. We will continue to administer the Defence abuse reporting function and respond appropriately to reports of abuse, offering RE conferences where it would be suitable and facilitated referrals to counselling.
- 5.4. We will also continue to address systemic issues if and when they arise. We may identify systemic issues in a complaint or report of abuse that extend beyond the individual issue or instance of that issue raised by a complainant/reportee. We may identify trends across several complaints or reports of abuse, or spot issues in environmental scanning, that suggest that beyond any one individual instance of an issue is a root cause. We can investigate these systemic issues either in response to an individual complaint about the issue or using our own motion power.
- 5.5. The DFO will also continue to monitor the outcomes and any recommendations of the RCDVS and further assist the RCDVS if and when required.
- 5.6. This report has provided insights into several trends drawn from anecdotal information and statistical data available to date. This is just the ‘tip of the iceberg’. There may be value in a detailed, fully resourced research and analysis into this dataset following the conclusion of our administration of the Reparation Scheme (with the full dataset), to provide a comprehensive overview of the Reparation Scheme. This Office will consider this while it continues to administer the Reparation Scheme.

APPENDIX: UNDERSTANDING THIS REPORT

Our use of data in this report

This report includes both statistical data based on reports of abuse received by our Office and anecdotal information based on our observations administering the Reparation Scheme and the Defence abuse reporting function. The information provided by reportees in their reports of abuse is based on their individual recollection of events – dates are approximate and, in some circumstances, their memory may have been impacted by the trauma they experienced.

Regarding the statistical data, our assessment of reports received under the Reparation Scheme is ongoing. Further data becomes available as a report progresses through the assessment process. As such, until assessment of all reports has been completed, the data presented in this report is subject to change compared to any previous presentations and in any future presentations. The data presented in this report was extracted on 9 August 2023³⁶, this is operational data that is subject to possible variation. As in any data reporting, a small margin of error is expected.

In many instances, each report received by our Office related to more than one occurrence of abuse or occurrences that involved multiple types of abuse. Our data does not capture all of these multiple occurrences at the granular level due to the method of data entry. Therefore, in some instances, not all percentages or totals will add to 100%.

It is important to note that data trend analysis is impacted by a variety of factors including the method of data collection, the systems used to store and extract data and the parameters applied when analysing data. Where there is a difference in our data trends compared with trends identified by the DART or earlier reporting of our Office, this does not necessarily indicate an error in the data or an actual decrease or increase in occurrences or reports of abuse for example.

We have also provided some anecdotal insights and observations of our administration of the Reparation Scheme so far. For the purposes of this report, we do not yet know whether some of these anecdotal comments are supported by data noting our administration of the Reparation Scheme remains ongoing. When providing examples of the types of behaviours observed, we reviewed a selection of reports involving such behaviours, we did not review all reports.

We cannot determine causality of the trends identified in this report at this point in time, noting that our assessment of reports received is ongoing and further research would be required following the conclusion of our administration of the Reparation Scheme. Any ideas presented regarding potential causes is based on conjecture.

³⁶ Except data relating to restorative engagement which was extracted on 10 August 2023.

Key definitions for understanding data

Assessed: A report is considered **assessed** when we have made a decision on whether the thresholds of reasonable likelihood and serious abuse are met (and provided this decision to the person making the report of abuse). Reports that have not yet been fully assessed may not have location or other data captured yet.

Closed: A report is considered **closed** when a report has gone through the full process by the DFO, including the reparation payment process where a recommendation for reparation is made and considered by Defence, and any restorative engagement process. There can be a substantial period of time between the time a recommendation for reparation is made and the payment being made by Defence.

Occurrence: An **occurrence** of abuse is one single act of abuse against a person. For example, a single physical assault. This report does not determine exactly how many occurrences of abuse were reported due to data limitations. A single report can include more than one occurrence of abuse and more than one occurrence of the same type of abuse. If an individual reported multiple occurrences or types of abuse at a single location in their report, this is only counted once.

Report: A **report** is an approach made to our Office by a current or former Defence member purporting to be a complaint of Defence abuse.

ATTACHMENT: RESPONSE FROM DEFENCE



Australian Government

Defence
PO Box 7900 CANBERRA BC ACT 2610

EC23-003591

Mr Iain Anderson
Commonwealth Ombudsman
Defence Force Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Iain,

Thank you for your letter of 4 September 2023 inviting Defence to respond to your recent report titled *Defence Abuse Reparation Scheme – Insights and Observations* (the Report).

We acknowledge the Report is a snapshot as at 30 June 2023 and, at that time, just under 60 percent of the reports received by your office have been finalised. Noting the shifting nature of society and claimants over the period of the Defence Abuse Reparation Scheme (the Scheme), as well as its extension, we suggest it may be of benefit to provide a final report once all cases are closed. The data outlined in a final report will provide valuable insights and lessons capturing the full range of cases through the life of the Scheme. We look forward to working with your office, at the appropriate time, to complete this body of work.

The Defence Response Unit has provided comment on the Report at Enclosure 1 regarding Defence perspectives on abuse, the management of reports of abuse, Defence intent in participating in the Scheme, and our aims moving forward to evolve our culture through the consistent reinforcement of values and behaviours. We would also like to express our thanks to your team who have worked diligently and collegiately with the Defence Response Unit to provide valuable and meaningful outcomes for serving and ex-serving personnel who have suffered serious abuse during their service in the Australian Defence Force.

Our point of contact for this matter is Commodore Richard Caton PSM RAN, Chief of Staff Australian Defence Force Headquarters. Commodore Caton can be contacted by telephone on [REDACTED] or by email at [REDACTED]

Yours sincerely

Matt Yannopoulos PSM
Acting Secretary
Department of Defence

13 October 2023

Angus J Campbell AO, DSC
General
Chief of the Defence Force

13 October 2023

Enclosure:

1. Defence response to the Report

DEFENCE RESPONSE TO THE DEFENCE ABUSE REPARATION SCHEME – INSIGHTS AND OBSERVATIONS REPORT

Background

1. Serious abuse is a critical issue which has had a significant impact on the Australian community, including Defence, for generations. Defence has actively acknowledged the significant and lasting impact of abuse on individuals and their friends and families. This includes through the Defence Abuse Response Taskforce (DART), the Defence Abuse Reparation Scheme (DRS), and the National Redress Scheme (NRS). In addition, Defence Legal's Dispute Resolution and Litigation office has engaged with many affected serving personnel and veterans who have chosen to engage directly with Defence in addition to, or in lieu of, one of these schemes.
2. Defence also acknowledges the mechanisms available in the past to respond to reports of such abuse have not always been accessible or appropriate. Currently, options to report abuse are more accessible to Defence members and veterans than they have ever been before.
3. Abuse in any form is neither tolerated, nor accepted in Defence. Defence is focused on supporting victims of historical abuse and ensuring all allegations of unacceptable behaviour are taken seriously. Where allegations of abuse are raised, Defence is committed to supporting those affected, holding perpetrators to account and taking appropriate action. The most serious sexual abuse cases are referred to civilian police or prosecution agencies. For historic cases under the DRS and NRS, Defence disciplinary action may be difficult to achieve if the respondent is no longer serving, if timelines for disciplinary prosecutions have been exceeded, or if evidence suitable for prosecution cannot be collected. This is important in the context that reports in the DRS cover a period of 77 years from 1946 to 2014. If an alleged abuser is still serving, administrative action may also be possible.
4. Successful civil or military criminal prosecution requires a burden of proof beyond reasonable doubt, and administrative action by Defence requires satisfaction on the balance of probabilities. Both represent a higher level of proof than the processing of a claim under a reparation scheme. Often the passage of time and reluctance of the victim to participate in the investigative process at that time, means the required evidence may not be available.
5. There a number of internal and external options to report abuse in the Defence environment. With respect to alleged sexual misconduct, options include civilian police, military police, the chain of command, the Inspector General of the ADF or the Defence Force Ombudsman. Some serious matters of sexual abuse may also be reportable as a public interest disclosure, or to the National Anti-Corruption Commission. In 2023, Defence introduced an additional mechanism in the department to report sexual harassment outside the chain of command, through provision for 'Stop Sexual Harassment Directions' in Part 6A of the *Defence Regulation 2016*. Defence takes action when sexual misconduct allegations are raised and the victim wishes to proceed with the matter. Offenders are held to account wherever possible.

6. Where a matter can proceed, the following advantages are offered when Defence deals with a matter where the alleged abuser is still serving:
 - a. Court proceedings tend to take substantially longer in the civilian jurisdiction. It is difficult to compare proceedings directly, due to different procedural requirements, different levels of military disciplinary proceedings and different methods of data collection. However, as an indication, the Annual Report for the Victorian County Court 2021-22 reported that the projected time to trial for a newly initiated matter at 30 June 2022 was 14-16 months. Within Defence, the time from service of a charge to trial to completion of automatic review within the military discipline superior tribunal system for 2022 was 125 days for 70% of matters (i.e. between 3-4 times as quickly as the Victorian County Court at a similar level of proceeding).
 - b. The modern Defence Force has the capacity and resolve to deal with matters of lower gravity, such as touching outside of the complainant's clothing, or verbal sexual harassment, which civilian police and prosecutors may not have the resources to pursue. However, these behaviours are taken very seriously because of their impact on the culture and discipline of Defence, offering a complainant greater choice in how to address the abuse they have experienced.
 - c. Defence seeks to extend similar protections to complainants and witnesses as are available in the civilian system, which are complemented by generally applicable military health and welfare supports. Defence is currently pursuing internal reform to extend additional supports including, where appropriate, legal assistance to complainants in disciplinary proceedings concerning sexual abuse.
 - d. *The Defence Force Discipline Act 1982* provides the capacity for the prosecution of matters which occur overseas, and, in some cases, may be the only tribunal capable of prosecuting abuse overseas by an ADF member.
 - e. When a complainant would prefer not to participate in a criminal or disciplinary proceeding, or it is otherwise more appropriate, Defence also has available a system of administrative sanctions to ensure accountability for demonstrated abuse. The availability of multiple options ensures a trauma-informed approach to accountability that includes the complainant's views and wishes.

Reparation Payments

7. The Defence Response Unit (DRU) was raised to manage requests for information (RFI) and reparation payments for the DRS and for the NRS with an estimate, at the time of establishment, of between 500 - 1000 cases in the DRS and the potential of a similar number in the NRS.
8. Defence and the Office of the Commonwealth Ombudsman conducted a review of report numbers in September 2019, and as a result the DRS was extended by 12 months. The DRS extension announced in December 2020, articulated that the timeframe to register an intent to lodge a complaint of abuse was extended until 30 June 2022, with final lodgement of completed applications to be made by 30 June 2023.

9. Since August 2020, there has been a steady increase in the number of reports of abuse to the Office of the Commonwealth Ombudsman. This may be the result of legal firms, social networks and advocates promoting the end date of the Scheme and expanding the knowledge of the DRS within the serving and ex-serving community.
10. Due to the significant number of ‘intentions to report’ received by the Defence Force Ombudsman (DFO) before 30 June 2022, and DFO structural changes in response to this (as described in the report), the DRU also recognised the need to also modify processes while still enabling coverage of commitments to non-DRS activities. With the efficiency measures implemented by both Defence and the Ombudsman’s office, the estimated completion of the DRS has been reduced from the initial estimate of end 2028 to end 2025.
11. Over the life of the DRS, statistics suggest 65 per cent of all reports result in a reparation payment recommendation. Applying that assessment to the outstanding claims it is estimated by the time all reports have been responded to by Defence and assessed (including reviews) by the Ombudsman, the DRU is likely to receive approximately another 880 reparation recommendations. Based on this projection, there are in the order of 1274 reparations remaining to be paid.
12. The final number of reports and RFIs has exceeded all expectations at the commencement of the DRS. This provides some concerning insight into historical defence culture. The most significant growth in reports occurred following the announcement and public advertising of the DRS extension in December 2020. Expenditure on reparation payments in the three years to December 2020 was \$36,960,000. The total reparation paid as at 23 August 2023 was \$81,705,000.
13. Based on the data to date, there is an expectation the 1274 pending reparation assessments will result in at least a further \$53,000,000 in payments over the next two years with a final DRS payment total likely to be in the order of \$135,000,000. This represents reparation payments exceeding \$115,000,000 above the estimated cost of \$19,600,000 in 2018 when the resourcing for the scheme was initially considered.
14. When the DRS was developed in 2017, it was acknowledged by Defence these reparation payments, unlike compensation payments, are designed to express sorrow and regret to the recipient for their experiences during their service in the ADF. The payments do not prevent seeking compensation from Defence via other mechanisms.

Restorative Engagement

15. Defence is active in the provision of a restorative engagement function to those reportees who wish to participate. The DRU manages requests for Defence representatives and collaborates with the Ombudsman’s office in the training and selection of senior officers to participate in specific engagements.

16. The DRU also manages Direct Personal Responses. These are an extended form of Restorative Engagement, provided for complainants under the NRS, through Defence Dispute Resolution and Litigation cases and other complex cases referred by Ministers, other agencies or the Service Headquarters. All participants engage on a purely voluntary basis.
17. The DRU will provide the Direct Personal Response program to DRS reportees where the expectation is the extended Direct Personal Response will provide a more fulsome or timely outcome.

Cultural change

18. At the same time Defence has acknowledged and apologised to many personnel and veterans, there has been significant work towards changing the underlying values and culture that may have allowed for unacceptable and inappropriate attitudes and behaviours to exist. From 2014, the Sexual Misconduct Prevention and Response Office, the Complaints and Alternative Resolutions Manual, and Pathway to Change were all implemented with a strong focus on changing Defence's culture and providing more robust reporting mechanisms.
19. The cultural evolution in Defence continues and the organisation endeavours to meet and exceed societal expectations.

Moving Forward

20. In July 2022, the Chief of the Defence Force publicly committed to an enduring process to follow on from the DRS. The evaluation of past schemes and processes is contributing to determining the options for best assisting those harmed by their service in the ADF. This will embed restorative behaviours in Defence's complaints management processes and will embed the lessons learned from the DRS and observations of the Ombudsman's Office in the design and implementation of the Scheme.
21. Defence acknowledges utility of reports provided by the Office of the Commonwealth Ombudsman and the cooperative relationship through the life of the Defence Reparation Scheme. The strong connections at the staff and leadership levels between the Ombudsman's Office and the DRU are appreciated. The shared commitment to addressing the needs of the complainants in a victim centric and trauma informed manner underpins the progress of the DRS to date. This focus and commitment to cooperation continues.