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Dr Kathleen Dermody
Secretary
Senate Standing Committee on
Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Dear Dr Dermody

I write to correct evidence that I gave during the Supplementary Estimates hearing held on 17 October 2012 concerning the DLA Piper Review of Allegations of Sexual and Other Abuse in Defence. DLA Piper has since corrected the advice it provided to the Department in preparation for the hearing on which aspects of my evidence were based.

In answer to a question from Senator Johnston (page 26 of Proof Hansard), I stated that 179 matters were out of scope of the Review. I am now advised that the correct figure was 178.

In answer to a further question from Senator Johnston (page 26 of Proof Hansard), I relayed DLA Piper's advice, regarding the process for notifying the out of scope complainants of the decisions. The advice was that 128 out of scope complainants were advised by the Review directly that they were out of scope, nine were referred to the Inspector-General ADF and 42 were awaiting the Minister's instructions.

In response to our subsequent query, DLA Piper has since advised that, of the 178 Out of Scope matters, 68 individuals were *not* notified that their communication was out of scope of the Review. DLA Piper has advised that the majority of those 68 communications did not require notification because they contained no allegations and were in the nature of a general comment or suggestion relating to the 'Skype incident' or Defence and/or the Minister's response. DLA Piper has also advised that the remaining communications (of the 68) did not require or enable notification because they were in the nature of offers of assistance (including one job application), anonymous communications/communications that contained no contact details, requests for information, subsequent withdrawals, one communication was referred to the Review in error, one matter was captured in media reporting and one communication was returned to the Minister's Office for action.

DLA Piper has also since advised that 65 individuals were notified directly that their matter was outside the scope of the Review, a further 43 matters had originated as correspondence to the Minister and were awaiting his instructions and two individuals remained to be notified. DLA Piper is working to contact those two individuals now.

DLA Piper has also identified a further communication to the Review (an offer of consultancy services) that was determined by the Review to be out of scope at the time but was not referred to Defence or the Ombudsman for consideration. The Review responded to the individual in July 2011 declining the offer. That communication is not yet reflected in the figures above pending its referral to, and consideration by, Defence and the Commonwealth Ombudsman's Office.

Finally, I also understand that the nine matters referred to the Inspector-General ADF were not in fact out of scope matters.

I apologise for misleading the Committee, albeit inadvertently and again repeat that the material I provided was as had been advised to Defence at the time of the Committee hearing on 17 October 2012.

Yours sincerely

Mark Cunliffe PSM
Head Defence Legal
Department of Defence