

## INTRODUCTION

On 29 September 1993, the Senate referred a detailed set of Terms of Reference to the Senate Standing Committee on Foreign Affairs, Defence and Trade concerning the nature and incidence of sexual harassment or sexual assault and the handling of such complaints in the Royal Australian Navy and the other armed forces.

The Terms of Reference require the Committee to examine the overall situation, as well as the incidents on board the Destroyer Escort, HMAS SWAN, during 1992 involving the medical officer, Dr Wheat, and the female sailors assigned to that ship.

Dr Wheat wrote to the then Minister for Defence Science and Personnel, the Hon. Gordon Bilney, MP, on 25 November 1992 expressing dissatisfaction with various aspects of her service on the SWAN and subsequently.

In December 1992, a Navy court-martial tried and acquitted an officer from HMAS SWAN of a charge that he sexually assaulted Dr Wheat during the deployment. Navy convened a Board of Inquiry on 21 December 1992 to investigate the matters raised by Dr Wheat, in particular Dr Wheat's allegation that she had been sexually harassed on the SWAN. The Board delivered its findings in a confidential Report to the Maritime Commander on 8 March 1993. The Recommendations were largely adopted, with some variations. In September of that year some of the matters dealt with by the Board were prominently featured in the media and allegations made that the incidents and investigations were inappropriately handled. On 9 September 1993, the then Minister for Defence Science and Personnel, Senator the Hon. John Faulkner, raised the matter with the Committee Chairman and issued a press release on the same day noting that he had done so. On 29 September, the Senate referred the matter to this Committee for inquiry.

The Committee approached selected organisations integral to the inquiry, such as the Navy and Headquarters, ADF, as well as other organisations which it considered could provide a benchmark for comparison with the ADF. The Human Rights and Equal Opportunity Commission, the Public Service Commission and the Australian Federal Police were prominent among these. The Inquiry was advertised in the print media and interested members of the public and the Services were invited to lodge submissions.

The Committee received a total of 122 submissions from individuals, including many submissions from current and former Service personnel and 16 submissions from various organisations. Among the submissions were some which advanced specific claims and made specific charges against individuals.

The Committee considered very carefully how it should deal with such allegations. The approach the Committee adopted reflected a wish to strike a fair balance between receiving legitimate information that would enable it to fulfil its terms of reference and receiving information that would prejudice the natural justice rights of individuals.

The Committee is bound by the procedures laid down in the parliamentary resolutions of the Senate to provide any individual opportunity for a response to allegations about that individual of an adverse nature. Another important consideration that was taken into account by the Committee is the limitation on the capacity of a parliamentary committee to investigate in detail all the claims and counterclaims that can arise in specific cases. In many instances, therefore, the Committee accepted submissions on the basis that the identities of the individuals named adversely were not revealed. In those cases the Committee made an offer to the complainant to refer the complaint to either the Sex Discrimination Commissioner, the Ombudsman or other appropriate authority to monitor the handling of the case. This approach enabled the Committee to form a view as to the kind of complaints that were being made without making determinations on specific allegations. This procedure was not, however, considered appropriate in relation to the incidents on the SWAN. In relation to possibly adverse comments about individuals involved in the incidents on the SWAN, the Committee sought written responses to any comment that could be construed as adverse. Allegations about the way in which the Services had handled specific sexual harassment complaints were not referred individually to the Services for response. The Committee's approach was to explore the types of issues raised by individuals in their submissions to the Committee with representatives of the Services at public hearings and in follow-up correspondence with the Services.

The Committee held six public hearings and in-camera hearings of four witnesses during the course of its inquiry. Fifty-seven witnesses appeared before the Committee at the public hearings, in some cases more than once. Witnesses who wished to have legal counsel present when they gave evidence to the Committee were advised that, in accordance with the relevant Parliamentary Privilege Resolution of 25 February 1988, the role of counsel would be restricted to advising the witness only. While a witness was free to consult counsel in the course of a meeting at which the witness

was required to appear, counsel assisting the witness were not permitted to speak on behalf of the witness or to direct questions to the Committee, to the witness or to other witnesses.

At one public hearing held at Maritime Headquarters in Sydney, fifteen serving members of the Navy, ranging in rank from Able Seaman to Lieutenant Commander, recounted their experiences and expressed their views to the Committee. Representatives of Navy appeared before the Committee on three occasions to respond to issues and questions that the Committee identified during its deliberations. Representatives of Army and Airforce, and the Commandant of the Australian Defence Force Academy appeared, jointly with the Assistant Chief of Defence Force - Personnel before the Committee.

Vice-Admiral Ian MacDougall, who was Chief of Naval Staff during the time when the SWAN incidents took place, and steered the Navy onto its present course, gave a full and frank account to the Committee of shortcomings in the Navy's initial understanding of the full extent and nature of the problems it would have to address with the integration of women in the Service.

Vice-Admiral MacDougall's term of office happened to come to an end during the course of the inquiry. The Committee was pleased to be in a position to observe that Vice-Admiral Taylor, who took over as Chief of Naval Staff from Vice-Admiral MacDougall, and led the Navy's team to the Committee's final public hearings, affirmed his personal commitment and that of the Navy to a positive program of change in all workplace relationships in the Navy.<sup>1</sup>

The Committee wishes to thank the Navy for the way it responded to the many requests the Committee made for information and documentation. This inquiry has proved exceptionally demanding in the quantity and detail of the evidence required. The Navy provided all material requested promptly and facilitated the Committee's investigations in every way. The Committee particularly appreciated the opportunity to spend a day at sea on HMAS SWAN. It was also appreciated that the one member of the Committee who was unable to be present on the SWAN subsequently spent a full twenty four hours on the SWAN sister ship, HMAS TORRENS. These experiences made an invaluable contribution to the Committee's understanding of the issues and circumstances surrounding the incidents on the SWAN.

---

1 VADM R. Taylor, Committee Hansard, p. 1246

The Committee wishes to express its very deep appreciation to all the individual members of the Defence Force who have come forward with personal submissions to the inquiry. Particular thanks go to all the individuals who came before the Committee at public hearings.

The Committee is very much aware of the courage that it takes for individual women and men to make public their views and experiences on matters that are usually regarded as personal and private.

The Committee recognises the anxiety and stress that may be involved for the individuals who came forward. The Committee also recognises the pressures that individual members of the Defence Force may feel they are under to demonstrate unquestioning loyalty to tight-knit organisations such as the Navy, the Army or the Airforce.

This is by no means to say that either the top leadership, or any other management level in the forces deliberately exerted such pressure. On the contrary, the Committee was impressed by the efforts made to encourage individual personnel to put submissions to the Committee. This appeared to be particularly true in the case of the Navy. The Committee took note of the very clear messages from the then Chief of Naval Staff, Vice-Admiral Ian MacDougall to all personnel giving a firm assurance that unacceptable behaviour of any kind in the Navy would not be countenanced.<sup>2</sup> Signals were also sent out from the Chief of Naval Staff to all stations encouraging personnel to make submissions. The Committee is also aware, that articles and information about the inquiry appeared in the in-house "Navy News" paper. Several commanding officers made a point of drawing the attention of their crews to the opportunity to make individual views known. All witnesses were advised of the protection extended under parliamentary privilege. Vice-Admiral MacDougall gave the following undertaking at the first of the Committee's public hearings:

*"High in our thinking in relation to this Senate inquiry was: would there be fears of retribution if submissions were made? We all worked very hard with reassurance ... the rest of management and I have most forcibly made it clear that if anybody has something to say, good, bad or indifferent, in this context, no retribution." <sup>3</sup>*

---

2 The message from CNS and all-post signal is in Annex 7 to this Report.

3 VADM I. MacDougall, Committee Hansard, p. 575.

Notwithstanding this encouragement, the Committee does not underestimate the courage that it takes for an individual to expose herself or himself to scrutiny in a public forum. Not only does the individual lay herself or himself open to criticism by peers and others within the organisation, but also risks a further intrusion by the press into her or his private thoughts and feelings. Several witnesses came to the Committee in the firm belief that the press had distorted reality in the way the SWAN incidents were reported; they would have undoubtedly had concerns that what they said to the Committee could well be presented to the wider community in ways that may not accurately reflect their comments.

Indeed, the Committee observed that much of the media coverage failed to reflect accurately the balance of evidence presented during the course of a day of hearings. Television news at the end of the day and headlines the following morning invariably highlighted accounts of problems; little if any space was given to the extensive time witnesses spent in illustrating the complexity of the issues being examined. Nor was much news time given over to the accounts of the very real efforts that have been made to address acknowledged shortcomings in recent times.

There is no question that the unfavourable publicity associated with the SWAN revelations provided a very real spur to the Navy to speed up and extend efforts to address the issue of sexual harassment seriously. At the same time it was made clear to the Committee that the way in which the media reported the SWAN revelations left many Navy personnel angry. They said they felt that a slur had been cast, unfairly, over the whole Navy. Spouses and children of Navy personnel were confused and hurt by the reactions of the people around them to the sensationalised reporting.

A sense of unfair treatment was clearly conveyed to the Committee during an informal discussion with some of the personnel who had been on board the SWAN at the time of the incidents. Many felt their reputations had been tarnished by the way events that many crew members knew nothing of at the time were reported by the media. The Committee sensed that this informal meeting on the SWAN was the first opportunity these crew members had to have their account of the impact that the sensationalised reporting had had on their lives heard by anyone outside the Navy. The sense of unfair treatment extended well beyond the crew members of the SWAN and emerged in a number of submissions put to the Committee by other Navy personnel. Some expressed concern that the distorted publicity would harm the pace of integration of women into the Services.

The individuals who may have been bruised by the SWAN events or their aftermath can have the satisfaction of knowing that these events, including the Senate inquiry, have acted as a catalyst for a very positive and worthwhile enhancement of a program of change.

The Services repeatedly point out that they have certain advantages in that they are disciplined organisations. They have a tradition of imposing rules. They have the right and authority to discipline. They can go so far as to discharge anyone who fails to behave in the prescribed manner.<sup>4</sup>

Disciplinary measures have a place in changing behaviour. But disciplinary measures should be seen as only one of the tools available. Moreover, if the objective is to change future behaviour and not merely punish for past behaviour, careful and sensitive judgements need to be made about the role and use of disciplinary measures. Attitudinal change must be achieved if lasting change is to be achieved. Even more importantly, attitudinal change must be achieved if the destructive consequences of forced behaviour change are to be avoided.

If the behavioural changes demanded are seen to be unreasonable, unfair, or unclear, there is, a high risk of resentment. Resentment can be the cauldron for subsequent dysfunctional and damaging behaviours. Distress, confusion and uncertainty of the individual will affect organisational efficiency – and hinder the primary objective of the armed forces, the operational effectiveness of the armed forces in the event of conflict. It has been demonstrated that the distress caused by sexual harassment to the victim can have serious adverse consequences. At the same time, the level of confusion and uncertainty surrounding the question of sexual harassment and the effect that this uncertainty has on individuals and on the organisation has not been adequately examined or understood.

It is essential to deal with both sides of the question. It is essential to deal with the unhappiness of the women and men being subjected to behaviours they find unwelcome. It is equally important to deal with the emotions and needs of those in the process of accepting new standards of behaviour. It is necessary to examine the basics of what is expected of men and women in our society today.

---

4 Professor Bryson, HQADF Supplementary Submission, Committee Hansard, p. 1498

It is not only men who find difficulty in clearly identifying what society expects of them today. Some men and some women, and society as a whole sometimes send out confusing messages. On the one hand, there is still an expectation that the man will be strong. For some the most common way of demonstrating strength is by demonstrating power. The perception of success itself is intrinsically linked to visible power. And very often that power is exercised by various dominating behaviours. The reality is that men have frequently been encouraged by the society we live in to dominate, both by the use of strong language and other aggressive behaviours. Some women use different techniques – caustic comment rather than vulgar language, passive aggression rather than open violence. Yet these behaviours can in their own way be equally difficult to handle. The entry of women into previously all-male workplaces may be perceived as a challenge to deeply ingrained assumptions about the proper role, rights and obligations of men and women. Those issues must be openly discussed and not swept under the carpet if genuine attitudinal change to matters such as sexual harassment is to be achieved.

It is widely accepted that sexual harassment is not about sex but about power.<sup>5</sup> In the armed forces the power imbalance between individuals is compounded by the existence of a rigid Chain of Command.<sup>6</sup> The power of one individual over another is more deeply institutionalised in the armed forces than in society at large.

It would not be surprising then if the fundamental changes that society is undergoing in defining the relationship between the sexes were more difficult to come to grips with in the armed forces than elsewhere in society. Perhaps the surprising thing to emerge in this inquiry is that there is little evidence to suggest that sexual harassment is any worse in the Defence Force than elsewhere.

The statistics are notoriously unreliable and incomplete, but professionals who have observed the situation have tentatively concluded that sexual harassment in the ADF is no more prevalent than in society at large.

It is very clear that the Navy is now tackling the issue of sexual harassment with great energy and commitment. The Committee is satisfied that, at an organisational level,

---

5 Professor Bryson, HQADF Submission, p. 1503.

6 The Chain of Command is the structure through which authority is exercised in the military. It is a hierarchical structure in which personnel are required to carry out the lawful commands of their superiors. Personnel are promoted up through the Chain of Command on the basis of their abilities, experience and performance.

the Navy is actively pursuing a program of educating its personnel and raising awareness across the organisation about sexual harassment. The program, begun in January 1993, has undergone intensive development since then. Sensible mechanisms have been put in place to deal with those instances where education and awareness may not be enough to eliminate unacceptable incidents. The program has been very ably led throughout by Commodore Barrie. The assignment of an officer of this seniority to the task sends a clear signal to all personnel of the importance that Navy attaches to the issue. The Committee attended one such seminar and observed the professional presentation of the subject matter and the encouragement given to participants to discuss their concerns openly.

Most importantly, the Committee has noted the unequivocal commitment made by the Chief of Naval Staff, Vice-Admiral Taylor, appointed during the course of the inquiry, to continue the very serious effort begun by his predecessor, Vice-Admiral MacDougall to eliminate sexual harassment from the Navy. An outline of the measures they are taking is given later in this Report, together with the Committee's recommendations on the further development of the program.

The other two Services, the Airforce and the Army, have programs on the drawing board but have not proceeded with the same sense of urgency and commitment evident in the Navy. It is important that the Navy maintains its momentum. It is imperative that the other Services give a higher priority to developing the appropriate mechanisms and putting educational programs in place.

Expectations for this Report are high. Some individuals involved in the SWAN incidents appear to regard the inquiry as a court of appeal. Many members of the SWAN crew expect the report to exonerate them from the perception they believe the media has conveyed that everyone on the SWAN is in some way guilty of sexual harassment.

Several submissions have expressed the hope that the Report will set a benchmark for the way in which sexual harassment will be dealt with in the whole community.

Some hope it will put the brakes on what is often referred to as '*social experimentation*', that is the employment of women in areas previously exclusive to men. The Committee has taken the view that the problems of integration that have come to light since combat-related positions have been opened to women are in part due to the inevitable pressures created by such a major change in a very traditional organisation. The difficulties encountered do not warrant going back to the old ways.

The challenge is to make the new opportunities work for both men and women.

Feminists of different views may be variously critical and laudatory of the Report's findings. There is little possibility that the Report will either meet all the expectations or escape criticism from some quarters. The issue of sexual harassment and the related issue of equality of opportunity for women in the Defence Force are still too contentious for the Committee to hope to reach conclusions welcomed by all.

It is the hope of the Committee that the individuals directly touched by these events will accept the report as a fair-minded evaluation of the evidence that was put to the Committee. It is also the hope of the Committee that the Report will assist all those directly affected to understand better their own role in the events that occurred. Most importantly the Committee hopes that both individuals and the organisations they work in will have a better understanding of what is required of them to help prevent the repetition of the unhappy events on the SWAN and other similar instances that have occurred periodically.

## RECOMMENDATIONS

Recommendation One: The Committee recommends that the definition of sexual harassment under the Sex Discrimination Act be refined to reflect more clearly

- the hierarchy of complaints;
- the advantage, where possible, of the complainant informing the alleged harasser that his or her behaviour is offensive;
- the appropriate mechanisms and legal sanctions for the different degrees of seriousness of the unlawful behaviour.

[para. 1.118]

Recommendation Two: The Committee recommends that the Human Rights and Equal Opportunity Commission should investigate the proposal that the requirement under the Sex Discrimination Act for employers to take all "*reasonable steps*" to prevent an employee or agent from engaging in unlawful acts of sexual harassment should specify that, as one such "*reasonable step*", the employer should provide support, through an appropriate off-line, internal unit in the organisation (such as Sexual Harassment Contact officers) or, facilitate access to an external agency (such as the Sex Discrimination Commissioner), for the person who feels harassed to bring to the attention of an alleged harasser (directly or indirectly) that the person's behaviour is offensive, intimidating or humiliating.

Such action should be seen as different from a formal complaint alleging sexual harassment and provide an opportunity for both parties to clarify the situation and be made aware of the possible consequences if offensive behaviour continues. The purpose of the measure is to assist in resolving genuine misunderstandings before they become a major difficulty in the work relationship, particularly in situations where the person who feels harassed feels unable to prevent the offending behaviour by his or her own action alone. The measure would also simplify the resolution of a subsequent complaint, should such a complaint be formally lodged.

[para. 1.121]

Recommendation Three: The Committee recommends that Navy pay greater attention to the in-port activities of its personnel to gain the maximum benefit from these visits while minimising the potential for unacceptable behaviour. The Committee recommends that ships' officers, in conjunction with the Australian Defence or diplomatic representatives in the countries to be visited, identify possible suitable cultural, sporting and social in-port activities and make the arrangements for interested crew members to participate. This function could best be undertaken by officers, such as doctors and chaplains, who are responsible for the health and well-being of the crew.

[para.4.14]

Recommendation Four: The Committee recommends that care be taken to ensure that the choice of legal counsel appointed by Navy, Army and Air Force to assist with multiple inquiries or legal proceedings into the same or related matters does not give rise to perceptions of possible conflict of interest.

[para. 5.20]

Recommendation Five: The Committee recommends that the Defence Instructions covering Inquiries into Matters Affecting the Defence Force be amended to include a requirement, in the case of an inquiry into personnel matters such as sexual harassment, to inform all witnesses, including those who are not directly the subject of recommendations, of their status at the conclusion of the inquiry. Consideration should also be given to advising all those directly involved in an inquiry of the outcome of any action taken pursuant to the inquiry as soon as possible after decisions on the implementation of the inquiry's recommendations have been made.

[para. 5.27]

Recommendation Six: The Committee recommends that supervisors be clearly instructed and required to record in writing whether a performance assessment of an individual is based on a short period providing limited opportunities for observation of the performance of that individual.

[para. 5.70]

Recommendation Seven: The Committee recommends that a special effort be made to ensure that all qualified entry personnel be given sufficient information to understand the regulations governing public employment in the Defence Force and Navy's way of applying those regulations to its organisation.

[para. 5.92]

Recommendation Eight: The Committee recommends that Navy continue, through the Good Working Relationships program, to examine and improve all aspects of work relationships within and between the various functional groups in the Navy. In particular the Committee recommends that further detailed studies be carried out, with the assistance of expert consultants, into the impact of group dynamics on the individuals in the Navy, and on the organisation more generally, with a view to harnessing more effectively the human resources available to achieve higher standards of performance and behaviour.

[para. 6.20]

Recommendation Nine: The Committee recommends that in all its training and education courses on gender awareness, Navy stresses the responsibility of all individuals involved in incidents of unacceptable behaviour and sexual harassment. While it may not always be possible for the person who feels offended to tell the offender directly, the person who objects to the behaviour has a responsibility, especially if the offensive behaviour could also be interpreted as jocular or light-hearted, to tell at least one other person about it, preferably someone well placed to support the person who feels offended to resolve the situation before it deteriorates further. To facilitate such communication the identity of all Sexual Harassment Contact officers as the personnel best equipped to offer support should be readily accessible

to all personnel; moreover all personnel should be clearly advised that they may approach the Sexual Harassment Contact officer in their own unit or in any other unit or division.

[para. 6.46]

Recommendation Ten: The Committee recommends that the Navy:

- re-examine the adequacy of the nine week qualified entry officers' course and the reserve officers orientation course and consider extending the courses to a full six months;
- consider setting a minimum recruiting period to allow for longer training;
- give new medical recruits the opportunity to take day and weekly running trips before taking up a longer sea posting;
- wherever possible give new medical recruits a sufficient period on shore before posting to sea;
- make a determined effort to post medical officers to ships in time for them to take part in the work-up of the ship before deployment;
- identify specific naval tasks that can be effectively undertaken by medical and dental officers at sea in addition to their professional medical duties to assist them in being accepted as fully integrated members of the team; and
- ensure that the qualified entry officers in both the Reserve and the Permanent Naval Force are clearly informed about these additional tasks and are adequately equipped, during their initial training, to carry them out.

[para. 6.95]

Recommendation Eleven: The Committee recommends that the provision of medical services on board naval vessels be reviewed, with particular focus on the benefits to be gained from making sea postings available to registered Navy nurses. The review should include an evaluation of the benefits of replacing Petty Officer Medic positions with fully qualified nursing staff, as well as the feasibility of nursing staff, in certain circumstances, being appointed to replace medical officers.

[para. 6.97]

Recommendation Twelve: The Committee recommends that an in-depth review be conducted of all positions at sea with the objective of more clearly identifying the personal characteristics, skills and aptitudes that are considered essential for service at sea. The review should include identifying minimum physical requirements including strength and flexibility, and characteristics such as resilience to stress, adaptability,

and teamwork, that are appropriate for the conditions and for the technologies actually in use today.

[para. 6.104]

Recommendation Thirteen: The Committee recommends that all potential new entrants to the Navy, including direct entry specialists, be given an opportunity to fully discuss and evaluate the difficult and demanding aspects of service, especially at sea, before making a firm commitment to the Navy.

[para. 6.107]

Recommendation Fourteen: The Committee recommends that a review of the management of the RAN's Tactical Electronic Warfare Support Section (RANTEWSS) be undertaken by an independent investigator, reporting directly to the Minister for Defence. In particular, the review should include:

- the organisational structure of RANTEWSS;
- the selection and training of personnel, including the gender balance required to provide equal opportunity for sea postings;
- the establishment, pre-deployment preparation and tasking of tactical teams, including the provision of appropriate equipment and work aids;
- the scope for integrating teams more effectively into ships' crews; and
- the work practices and conditions of deployed teams.

[para 6.116]

Recommendation Fifteen: The Committee recommends that all personnel in the Navy are assessed in the routine appraisal process for their capacity to develop a good working relationship with other personnel, no matter what their gender or sexual preference.

[para. 6.122]

Recommendation Sixteen: The Committee recommends that all personnel with supervisory and management responsibilities are assessed for:

- their skills in facilitating the integration of women into the Service;
- their compliance with the requirement that all sexual harassment complaints are properly investigated;
- their ability to assist in the effective resolution of sexual harassment allegations.

Where appropriate, the views of subordinates of the person being assessed should be taken into account in order to arrive at a reliable assessment of these matters.  
[para 6.123]

Recommendation Seventeen: The Committee recommends that the guidelines for performance appraisal be reviewed:

- to clarify the approach that supervisors should adopt to matters such as inadequacies in the assessee's training for tasks, short assessment periods and lack of opportunity for the assessee to demonstrate the particular skills for which he or she is being assessed; and
- to ensure that all supervisors are consistent in their approach to performance appraisal.

[para. 6.124]

Recommendation Eighteen: The Committee recommends that a full-scale review of the Divisional System be carried out. The review should include in particular:

- the effectiveness of the Divisional System in meeting the needs of individuals and in meeting the needs of the organisation;
- the impact of the 008 number on the operation of the Divisional System;
- the impact of the introduction of Navy Quality Management on the operation of the Divisional System; and
- the adequacy of the training of Divisional Officers and Divisional Chiefs for their Divisional duties.

[para. 6.165]

Recommendation Nineteen: The Committee recommends that the potential for tensions between the principles underlying the Chain of Command and the more participatory problem solving principles of Navy Quality Management be openly and more fully addressed at every level of management training in the Navy.

[para. 6.173]

Recommendation Twenty: The Committee recommends that:

- the behaviour designated as gender harassment in para 4d of Annex A to DI(G) PERS 35-3 be clearly identified as unacceptable behaviour between all personnel, including behaviour between members of the same gender; and

- the example in 4b of Annex A to DI(G) PERS 35-3 be reformulated to include derogatory references to both female and male physiological functions.

[para. 6.179]

Recommendation Twenty-One: The Committee recommends that more emphasis be given in the draft DI (G) PERS 35-3 to:

- the value of seeking to resolve concerns about sexual harassment by the individuals involved and at an informal level; and
- the support mechanisms available to the complainant. The guidance should make explicit reference to all the 008 numbers in the section headed "*Avenues of Complaint*". The guidance should also be regularly supplemented by the service-wide circulation of up-to-date lists of Sexual Harassment Contact officers.

[para. 6.180]

Recommendation Twenty-Two: The Committee recommends that the DI (G) PERS 35-3 be more detailed and specific in the guidance it gives on false allegations of sexual offences and sexual harassment. In particular the instruction should outline the procedures that are to be followed and the possible outcomes in the event that a false, malicious, vexatious or patently unfounded allegation is made.

[para. 6.192]

Recommendation Twenty-Three: The Committee recommends that, where a PERS 1 or PR5 is disputed, the superior should see the supervisor responsible for drafting the report and the subordinate separately, before any attempt is made to resolve differences between the parties in a joint meeting.

[para. 7.131]

Recommendation Twenty-Four: The Committee recommends that the Chief of Naval Staff review the censure of Captain Mole, taking into account the Committee's view that:

- Captain Mole should have been given an opportunity to respond to the specific details of the censure as finally issued by the Chief of Naval Staff;
- the censure carried additional weight because it was made public; and
- the severity of a censure at the Chief of Naval Staff level is out of proportion to any shortcomings in Captain Mole's performance as Commanding Officer of the SWAN.

[para. 7.229]

Recommendation Twenty-Five: The Committee recommends that review of Captain Mole's censure should include a parallel review of his performance assessments since August 1992. Furthermore, the Committee recommends that any selection panel considering promotions where Captain Mole is a candidate should have this Committee's Report brought to its attention.

[para. 7.230]

Recommendation Twenty-Six: The Committee recommends that the censure for all other personnel involved in the SWAN incidents be reviewed in the light of the findings of this inquiry.

[para. 7.232]

Recommendation Twenty-Seven: The Committee recommends that amendments to the Defence Force Disciplinary Act be considered to allow for alleged sexual offences involving only Australian military personnel that occur outside Australian territorial waters, including on board Australian vessels, to be tried in a civilian criminal court under the relevant law applying in the Jervis Bay Territory in Australia, having been investigated by the appropriate civilian police and prosecuting authorities.

[para. 8.24]

Recommendation Twenty-Eight: The Committee recommends that:

- the 008 service should remain an integral component of Navy's strategy to eliminate sexual harassment; and
- protocols governing the operation of the 008 number be reviewed in the light of experience a year after the tabling of this report.

[para. 10.19]

Recommendation Twenty-Nine: The Committee recommends that in future, organisers at the Good Working Relationships seminars apportion appropriate time to the issue of homosexuality and the way in which the guidelines on unacceptable sexual behaviour apply.

[para. 11.22]

Recommendation Thirty: The Committee Recommends that Navy devise a conflict resolution program drawing as appropriate on "*Resolving Conflict: Following the Light of Personal Behaviour*" as one useful model. Such a program should be used as an additional segment of the Good Working Relationships program to give practical advice to all personnel in the Navy for resolving the conflict associated with sexual harassment.

[para. 11.26]

Recommendation Thirty-One: The Committee recommends that, in developing the guidelines and training for a conflict resolution program as suggested in Recommendation Thirty, particular attention is given to the development of those skills

and techniques which enable individuals subjected to sexual harassment to be more confident and effective in dealing with such harassment at the personal level.

[para. 11.32]

Recommendation Thirty-Two: The Committee recommends that Navy and the other Services ensure that Defence Instructions regarding policy changes affecting personnel are followed up and explained at divisional and unit meetings.

[para. 11.38]

Recommendation Thirty-Three: The Committee recommends that as new instructions are promulgated, care is taken to ensure that all terminology is gender neutral. The Committee further recommends that as far as possible existing instructions are revised to reflect the new situation.

[para. 11.40]

Recommendation Thirty-Four: The Committee recommends that all officers who are likely to be appointed as Divisional Officers should undertake through - career courses which cover issues of gender awareness and the referral and handling of complaints of sexual harassment.

[para. 11.41]

Recommendation Thirty-Five: The Committee recommends that specific training be provided for staff in the recruitment and postings section of Navy's organisation to enhance their skills in the area of matching the person and the job.

[para. 11.45]

Recommendation Thirty-Six: The Committee recommends that Army, Air Force and particularly ADFA adopt an approach similar to that of Navy towards raising gender awareness and preventing unacceptable sexual behaviour from occurring.

[para. 11.46]

Recommendation Thirty-Seven: The Committee recommends that an evaluation study of the impact of the Good Working Relationships program be undertaken 3 years after implementation.

[para. 11.50]

Recommendation Thirty-Eight: The Committee recommends that the Service Chiefs of Army and Airforce create an opportunity to deliver, in such a way that it reaches all personnel forcefully, their unequivocal and strong commitment to the elimination of sexual harassment from their respective Services.

[para. 12.52]

Recommendation Thirty-Nine: The Committee recommends that the ADF implement without delay the action plan submitted to the Committee on 4 February 1994. The emphasis at this stage of developing the program to eliminate sexual harassment from the ADF should be on service-wide education and on preventative rather than punitive

measures. The Committee considers that particular attention should be paid to the following aspects in the action plan:

*I Amendments to Defence instructions*

- (a) Mixed-gender focus groups of ADF personnel should be used to gain a better insight into the views of ADF personnel on a hierarchy of unacceptable sexual behaviours, including sexual harassment, and the views of ADF personnel on the optimum way of resolving incidents of varying severity. The results of such focus groups should then be one element to consider when refining further the Defence Instructions on Unacceptable Sexual Behaviour. It remains a matter for the ADF leadership to determine with as much clarity as possible, where the boundaries of sexual behaviour in the ADF lie.
- (b) In addition, changes should be made to the current draft DI(G) PERS-35 on sexual harassment, as outlined in the Committee's Recommendations Twenty, Twenty-One and Twenty-Two.
- (c) DI(G) PERS-35 should be supplemented by a practical guide to all personnel (complainant, harasser, supervisor, observer) for dealing with instances of unacceptable sexual behaviour. The Committee's recommendation Thirty gives more details about the guide.

*II Action to educate and raise awareness*

- (a) Compulsory awareness raising seminars for all ADF personnel, including all senior ranks, should be developed and introduced as a matter of urgency. While written instructions are essential, they are not sufficient to ensure proper understanding and handling of sexual harassment by all personnel. The seminars are essential to enable all personnel to gain a clearer understanding of the problem and how to deal with it.
- (b) The ADF-wide awareness raising seminars should be supplemented by more specific training for any personnel who wish to develop skills and techniques for dealing with such harassment at the inter personal level.
- (c) Procedures should be put in place to ensure that course symbols, such as pilot course badges, in-house publications (both formal and informal) and training materials do not contain unacceptable sexual connotations.

*III Provision of alternative avenues of support*

An essential component of an effective sexual harassment policy is the ready availability of avenues of complaint other than through the chain of command.

- (a) A 008 confidential advisory service should be maintained. Consideration should be given to amalgamating the initial points of contact, so that a

single 008 telephone number for all Service personnel replaces the existing 008/1800 numbers for Army, Navy and Air Force. It should be possible for callers to either talk directly to a counsellor or to leave a message at any time of the day or night. Every effort should be made to respond to any message left on the 008 number within 12 hours of the call being received. The service should continue to be widely publicised and reviewed in three years time. Any new staff appointed to the service should be appropriately trained.

- (b) Measures should be put in place to ensure that all other personnel, such as doctors, chaplains, social workers and psychologists who may also be used as an alternative avenue to receive and address complaints are fully aware of their responsibilities in relation to sexual harassment and undergo appropriate training to enable them to identify and assist personnel who may be at risk and to deal appropriately with incidents of sexual harassment that come to their attention.
- (c) The role of specialists such as doctors, chaplains, social workers and psychologists in assisting personnel to deal with harassment should be made clearly known to all personnel.
- (d) An external conflict resolution process should be introduced and made widely known and readily available to any personnel who consider they are being subjected to harassment and encounter difficulties in resolving their complaint directly at the unit level.

#### *IV The promotion of informal resolution of allegations of sexual harassment*

- (a) The emphasis in dealing with allegations of sexual harassment should be on informal resolution of the complaint at the local level. Personnel who believe they are being subjected to sexual harassment should be encouraged and given support in resolving the conflict at a personal level.
- (b) If, however, a formal, internal complaint is proceeded with, the procedures followed and the mechanisms that are in place should give assurance to the complainant that the complaint is being fully and properly investigated.
- (c) If the internal investigation is not satisfactory to the complainant, or if the person harassed encounters difficulties in pursuing this course, information on all alternative options (eg. an approach to HREOC, or to the Defence Force Ombudsman) should be made readily available.
- (d) Recourse to courts martial for resolving complaints of sexual harassment should be regarded as a last resort, after other avenues for resolving the problem have been fully explored.

- (e) Assurances must be given at the highest level and monitored to ensure compliance, that there will be no retribution for making a legitimate complaint.

#### *V Improved procedures for the investigations of complaints*

Immediate attention must be given to overhauling the procedures and guidelines for the investigation of complaints to incorporate the following:

##### *(a) Investigation of sexual assault*

Allegations of sexual assault must be immediately referred to civilian police authorities for investigation.

Provision should also be made for continuing liaison between the civilian investigating authorities, and the military particularly in relation to incidents outside Australian territorial waters pending the adoption of measures in the Committee's Recommendation Twenty-Seven.

##### *(b) Investigation of other sexual harassment allegations*

All personnel appointed to investigate incidents must have had appropriate training in the investigation of such complaints.

In all but exceptional cases, investigating officers should be appointed from outside the unit where the alleged incident occurred.

Investigating officers should not be personally acquainted with any of the parties involved in the incident.

All the Services should establish closer liaison with specialists in the investigation of allegations of sexual harassment, both in terms of training military personnel to conduct such investigations internally and to seek the assistance of civilian investigators in cases where suitable military investigators are not available. Where difficulties arise in appointing suitable military investigators from within the Service where the complaint has been made, the use of trained investigators from a Service other than the one where the complaint was made should also be considered.

#### *VI Ensuring that supervising officers are accountable*

- (a) The performance appraisal forms of each Service should be revised so that the extent to which all personnel adhere to the guidelines on unacceptable sexual behaviour is assessed, including the extent to which senior officers carry out their responsibility to take appropriate action to investigate quickly and fairly any allegations of sexual harassment. Care should be taken to ensure that these assessments are given equal weight by, and are comparable across all the Services.

## VII Clarifying organisational responsibility

- (a) Steps should be taken urgently to establish clearly whether the ADF or the Department of Defence has the responsibility to ensure that proper sexual harassment policies and mechanisms are in place for handling sexual harassment allegations in establishments where both military and civilian personnel, including contract personnel, are employed.

## VIII Monitoring sexual harassment

- (a) Mechanisms should be established for an accurate and comprehensive on-going record of the number and kind of sexual harassment incidents occurring in the ADF. These mechanisms should be such as to enable valid comparisons to be made between the Services and between different units, including training units, within each Service. The records collected should clearly identify the nature of the incident, the action taken and the outcome.
- (b) The Committee notes that, from the records currently available from the 008 numbers, there appears to be a significant difference in the kind of calls being received by the Navy and the kind of calls being registered in the other two Services. In particular, the level of incidents of general harassment in the Navy appears to be as high as that recorded for sexual harassment. All Services should ensure that general harassment as well as sexual harassment is identified and recorded. The categorisation of the calls should be standardised across all the Services.
- (c) All exit interviews should specifically seek to establish whether the person has experienced sexual harassment, the extent and nature of any such harassment, and whether such harassment has played any part in the person's decision to leave the service. Comparative data on the difference at separation in the ranks and length of service between male and female personnel should be monitored.
- (d) The Services should conduct a survey similar to that conducted by Major Quinn in 1987 to provide data on women's perceptions of sexual harassment since the major policy changes on integration were introduced. A survey at this time would be a further useful benchmark for future evaluation of the programs now being put in place.

## IX Establishment of Advisory Committee

- (a) The chain of command should continue to take full responsibility for the development, implementation and monitoring of ADF policy on sexual harassment. It is also essential that the Services develop their own internal expertise in every aspect of the management of sexual harassment, including expertise in group dynamics and conflict resolution. However, there would be value in setting up an Advisory Panel

to meet periodically with the Defence Force Policy Committee to assist the ADF carry out this responsibility. The Federal Sex Discrimination Commissioner, the Defence Force Ombudsman, and the present consultants to Navy and the ADF on sexual harassment should be included on the Advisory Panel. In view of the many integrated civilian/military establishments, consideration should also be given to including a representative of the Merit Protection and Review Agency. The HQADF and single Service EEO Units and personnel providing the 008 services should, as a matter of course, participate in meetings with the Advisory Panel.

[para. 12.85]

Recommendation Forty: The Committee recommends that the ADF report back to the Senate, one year after the Government's response to this Report, on the action taken by each of the Services and the Australian Defence Force Academy to eliminate sexual harassment from the Australian Defence Force.

[para. 12.87]

Recommendation Forty-One: The Committee recommends that the ADF develop further the ADF's guidelines on appropriate professional behaviour and inter-personal relations. Particular attention should be given to both the process of arriving at those standards and the process of promulgating them. The Navy's approach of conducting focus groups to identify issues, followed by service-wide seminars which encourage communication and open discussion of the issue of unacceptable sexual behaviour in the context of appropriate overall behavioural standards provides an effective model for dealing with sensitive and complex matters of this kind. Similar processes should be put in place by all the Services to address the wider issue of professional inter-personal conduct, including general and sexual harassment, and mechanisms put in place for eliminating harassment of any kind from the ADF.

[para. 12.92]

Recommendation Forty-Two: The Committee endorses the principle of equal opportunity for women in the Australian Defence Force and recommends that high priority be accorded to removing, to the maximum extent possible, any remaining barriers to recruitment and promotion prospects for women in the Services. To achieve this, high priority and resources should be given to reviewing criteria for advancement in the Services to reflect accurately the full range of complementary skills and attributes required for an effective and efficient Defence Force. Particular care should be taken to ensure that policies on access to facilities, physical strength requirements, pregnancy leave, fraternisation and the pre-requisites for promotion, do not unfairly or unnecessarily disadvantage women. Equally importantly they must not be perceived as giving an unfair advantage to women.

[para. 12.102]