

CHAPTER 10

THE NAVY'S RESPONSE TO SEXUAL HARASSMENT

TERM of REFERENCE 1(i)

This Chapter examines the appropriateness of actions taken by Navy subsequent to the Board of Inquiry Report to address the issue of sexual harassment on Navy ships.

Before the SWAN Incident

10.1 In April 1990 the Chief of Naval Staff, Vice-Admiral Hudson announced that, as a result of a change in policy, women would be able to serve in peace time on all ships except submarines. This announcement was followed in June of the same year by a message to all Navy ships and establishments in which CNS stated:

*"I wish to make it quite clear that sexual harassment will not be tolerated in the Navy... Prevention of sexual harassment is the duty of all personnel. Divisional officers and supervisors however are in an especially important position to prevent sexual harassment and I expect them to take an active role in educating their subordinates."*¹

10.2 Another document entitled "Employment of Women", issued by CNS in February 1991 reinforced the position on sexual harassment stated in the earlier document:

*"Commanding officers will need to pay careful attention to ... ensuring that sexual harassment does not occur, especially as a manifestation of resentment at the employment of women at sea. DI(N) PERS 23-2 and DI(G) PERS 35-1 contain guidance on sexual harassment."*²

The Maritime Commander's *Guidelines on the Employment and Treatment of Women at Sea* in March 1991 also referred personnel to DI(N) 23-2. It is worth noting that

1 VADM M. Hudson, Mixed Gender Awareness - Sexual Harassment, 4 June 1990.

2 VADM M. Hudson, *Employment of Women*, para. 15.

DI(N) 23-2 had been issued in 1986 and was not updated when the 1990 change of policy came into effect and opened all sea going positions to women in peace time.

10.3 The Commanding Officer of HMAS SWAN gave evidence to the Committee that, during the Asia deployment in 1992, he only had that particular Defence Instruction (23-2) to rely on for guidelines on cases of sexual harassment.³ The new Defence Instruction (DI(N) PERS 16-5) on sexual harassment, issued in June 1992, has more detailed "Guidelines for Commanding Officers" and a list of examples of unacceptable behaviour and of sexual harassment. However, those instructions were issued while the SWAN was on deployment and only became available to the Commanding Officer of the ship after his return.

Navy's actions before the Board of Inquiry

10.4 Although it had issued a number of guidelines on the subject of sexual harassment in the two years preceding the incident, Navy acknowledged in its submission to the Committee that:

*"HMAS Swan was a trigger. It showed that the previous perception of integration at sea progressing satisfactorily could ... be quite wrong. It showed a need for cultural change within Navy, which in hindsight, should have been anticipated at the time that mixed gender work in Navy was introduced and then expanded."*⁴

Navy took a number of steps to enhance awareness of sexual harassment immediately following the SWAN incident and before the decision to conduct an inquiry into events that had occurred on the ship was taken.

10.5 On 30 September 1992 the Maritime Commander issued a Personal Memorandum to all Commanding Officers reminding them that sexual harassment, along with other forms of unacceptable sexual behaviour, would not be tolerated in the RAN. The Maritime Commander issued another Personal Memorandum on the same subject on 11 December 1992. Navy also told the Committee that the Maritime Commander conducted an open forum on 28 October 1992 to examine some issues of concern to women. As a result of the forum, a paper on the assimilation of women

3 CAPT D. Mole, Committee Hansard (in camera - released) p. 51.

4 RAN submission, Committee Hansard, p. 269.

at sea was produced, which made a number of recommendations on the issue to the Maritime Commander.

10.6 The paper prepared by Commander Carolyn Brand, RAN, identified some key issues for Navy to address in relation to the assimilation of women at sea. In particular, it identified that Navy management had:

*"failed to provide the guidance and training required by its personnel to deal with the significant change in the culture brought about by introducing women into combat units."*⁵

The paper also identified strong discrimination against outsiders to the group, both male and female. For example, female junior sailors were just as likely to discriminate against new recruits as were male junior sailors. The paper concluded with recommendations aimed at educating and equipping Navy personnel to integrate women at sea. It recommended a pro-active approach and suggested ways of providing support for women who were posted to sea. The Committee notes that many of the programs developed by Triulzi Collins Solutions consultants for Navy, follow an approach similar to that suggested in the Brand paper.

10.7 The Director of Naval Legal Services and the Director General of Chaplaincy (Navy) commenced a tour of Navy's establishments in November 1992 to give a series of presentations aimed at explaining the new defence instruction on Unacceptable Sexual Behaviour, DI(G) PERS 35-3. This initiative was followed up by the introduction of lectures on Unacceptable Sexual Behaviour policy by the Personnel Liaison Team as part of their regular presentations to ships and establishments about conditions of service.

Navy's actions after the Board of Inquiry

10.8 The Board of Inquiry was convened on 21 December 1992. In January 1993, the Chief of Naval Staff held discussions with a firm of consultants with expertise in the field of integrating women into previously all-male work environments. Triulzi Collins

5 Letter from CAPT B. Robertson to Committee Secretary, 11 May 1994. Enclosure: *The Assimilation of Women at Sea* by CMDR C. Brand, Dec. 1992.

Solutions was commissioned to develop a gender awareness training package for all personnel in the Navy.⁶ Also in January 1993, the Chief of Naval Staff sent:

*"amplified directives and guidelines to all Commanding Officers on unacceptable sexual behaviour and interpersonal relationships by members of the Navy."*⁷

In response to Navy's needs, Triulzi Collins Solutions developed and proposed the Good Working Relationships Project. The project was approved and implementation of Stage One commenced in April 1993.

10.9 The Board of Inquiry report was issued on 8 March 1993. Although a decision to proceed with seminars had been taken before the Board of Inquiry issued its report, the seminars run by Commodore Barrie, Lieutenant Commander McConachie and Petty Officer Plichá from Maritime Command began in March 1993. They covered the issues of unacceptable behaviour and sexual harassment by using a training package developed in-house by Lieutenant Commander McConachie, the Fleet Legal Officer. The Committee attended one of the seminars on 21 February 1994 and its comments can be found in Chapter 11 of this report.

10.10 Concurrently in March 1993, Naval Support Command issued a minute on *"Mixed Gender Awareness"* to all Commanding Officers within its Command for circulation to all personnel. The booklet handed out at Maritime Command seminars was supplemented in October 1993 with a leaflet on the topic of sexual harassment and on the avenues of complaint available to those who are subjected to it. Navy made copies of the leaflet available in *"Navy News"* and it was also distributed by other means throughout Maritime Command.

Development of the confidential database

10.11 In June 1993, the Navy decided to establish a centrally managed and confidential database of information on reports of sexual harassment and unacceptable sexual behaviour, similar to the database maintained by the New South Wales Police Force. Because a large number of sexual harassment incidents are resolved informally and many members of the Police Force move from one posting to

6 RAN submission, Committee Hansard, p. 251.

7 *ibid.*, p. 245.

another, the NSW Police database was developed in order to keep track of repeat offenders.⁸ Likewise, Navy's database will be used to ensure that any repeat offence is dealt with formally and carries the possibility of discharge.

10.12 By ensuring that repeat offenders are dealt with severely, this approach both protects other potential victims of sexual harassment and gives the offender the opportunity to be counselled and rehabilitated. Navy provided the Committee with the protocols that it has developed for the database. Although statistical information from the database is available to the Committee and on a weekly basis to the Minister for Defence Science and Personnel, Navy's policy states:

*"The primary requirement is that confidentiality of calls is not breached and thus it is not envisaged that names or other identifiers will ever be included in any data summaries authorised by CIS or ACPERS-N."*⁹

10.13 The Committee is satisfied that every step has been taken to protect the privacy of the individuals involved. The Committee is concerned, however, that Navy does not have in place a policy for destroying the files after a number of years. The Committee's view is that Navy should consider the imposition of a limit on the length of time for which information on the confidential data base of reports, of sexual harassment and unacceptable sexual behaviour is kept. Navy might consider adapting for its own needs the Guidelines suggested in Public Service Regulations 158/159.¹⁰

Operation Lifeguard

10.14 On the recommendation of the consultants it had employed, Triulzi Collins Solutions, Navy established a confidential toll-free '008' telephone referral service in September 1993. Known as Operation Lifeguard, the service was trialled for two months after which it became part of the EEO unit under the management of the

8 RAN submission, Committee Hansard, p. 248.

9 Letter from CAPT B. Robertson to Committee Secretary, 18 February 1994. Enclosure: *Protocols for Management of Confidential Databases*, para. 1.

10 Public Service Regulations 158 and 159 provide that records of disciplinary action remain as part of a staff member's official conduct record kept on the staff member's personal file. Records should be kept for 2 years in the case of admonition and in any other case for five years. The high mobility of Navy staff may require some increase in these time limits.

Director of Naval Personnel Services. It aims to give information about their rights to Navy personnel who may have been "subjected to, accused of, or witnessed any form of discrimination or harassment".¹¹ Callers, who can choose to remain completely anonymous are advised of the avenues opened to them if they wish to take further action. Details about the calls received since the service began are in Chapter 2 of this Report.

10.15 The Committee noted that the RSL was critical of the opportunity that the 008 number gave individuals to bypass the divisional system and the chain of command. Rear-Admiral Holthouse (Rtd.) appearing for the RSL told the Committee:

"we are concerned that the 008 number concept has the potential to reduce the effectiveness of the chain of command".¹²

10.16 Responding to the criticism, CNS told the Committee that, while he understood that concern, he was confident that the 008 number would not "kill the divisional system".¹³ The Committee shares the point of view expressed by the Chief of Naval Staff on this matter. It considers that the 008 number is an appropriate component of Navy's response to the existence of sexual harassment in its workplaces. It endorses Commodore Barrie's comments to the Committee that the education program against sexual harassment now run by Maritime Command:

"...has got to give young people the tools they need to eliminate sexual harassment from the workplace. The 008 number is simply one of those tools. It is a backstop."¹⁴

10.17 The Committee notes that Navy's 008 number to deal with sexual harassment was not a first for the Defence Force. A similar telephone information network called FIND (Family Information Network for Defence) was inaugurated in 1989 to provide support and advice to Service families on conditions of Service matters. Fears were

11 RAN submission, Committee Hansard, p. 261.

12 RADM (Rtd.) D. Holthouse, Committee Hansard, p. 1214. See also comments on the Divisional System in Chapter 6 of this Report.

13 VADM (Rtd) I. MacDougall, Committee Hansard, p. 1295.

14 CDRE C. Barrie, Committee Hansard, p. 1295.

also expressed at the time that the network would undermine the chain of command; experience has shown the fears were unfounded.

10.18 The 008 number is useful in many ways: it provides a "safe" point of contact as well as a source of support and a referral service. Its remoteness from the place where the harassment or unacceptable behaviour may be occurring makes it a more attractive option in the eyes of some than on-the-spot sexual harassment contact officers. Many members of Navy are committed to the Divisional System and may feel reluctant to go to contact officers for advice on resolving a minor incident. The anonymity of the 008 number allows individuals to weigh up their options with less pressure. The Committee has taken note of the protocols governing the operation of the 008 number that Navy has developed.

10.19 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.¹⁵

10.20 After the findings of the Board of Inquiry's report were leaked to the media in September 1993, the Chief of Naval Staff again wrote to all Commanding Officers stating strongly that sexual harassment and unacceptable sexual behaviour would be dealt with seriously and that management was taking all possible steps to ensure that such behaviour was eradicated from Navy workplaces. The stand taken by Navy's management was reinforced by the Maritime Commander in a message also sent in September 1993.

Navy's pro-active strategy

10.21 At that stage, however, Navy was doing a lot more than issuing instructions and directives. At the press conference convened by the Minister for Defence Science and Personnel on 9 September 1993, the Chief of Naval Staff told journalists that prior to the SWAN incident:

15 See Chapter 12 for other Committee recommendations relating to the 008 number.

*"We did not appreciate the sort of education programme that we should have undertaken ... The one regret I have is that in introducing women going to sea in warships that we didn't do more on the education side."*¹⁶

Recognising that it was not enough for Navy to promote government and organisational policy against sexual harassment through directives such as the Defence Instructions, Triulzi Collins had suggested a more pro-active approach to introducing organisational change.

10.22 Triulzi Collins' submission to the Committee stressed:

*"Formalised policy statements and procedural guidelines are best understood as an important first step in managing sexual harassment incidences."*¹⁷

In September 1993, Navy moved past those "first steps". Navy adopted and launched the Good Working Relationships education and training modules. The program was designed to ensure that no member of Navy failed to receive (either as part of their initial or through-career training) the message that the organisation views sexual harassment and unacceptable sexual behaviour as impediments to achieving its goals.

10.23 In evidence to the Committee, the Chief of Naval Staff stated that the message that Navy rejects sexual harassment and unacceptable sexual behaviour in its workplaces was accompanied by "an absolute leadership commitment to creating a harmonious working environment", and Navy's strategy involves:

*"compulsory through-career training and education to create an understanding of the issues in the work-place."*¹⁸

The training program is reinforced through an education video on unacceptable workplace behaviour, "Fair Game" which Film Australia produced for Navy in 1993.¹⁹

16 VADM I. MacDougall, Press Conference Transcript, 9 September 1993, p. 14.

17 Triulzi Collins Solutions, submission, Committee Hansard, p. 637.

18 VADM I. MacDougall, Committee Hansard, p. 552.

19 This video won a Gold Mobie Award for internal communications in 1993.

10.24 In December 1993, the Maritime Commander issued a directive that:

*"Commanding officers are to appoint an appropriate officer or senior sailor to act as a Harassment Counsellor within their command... The names of the appointed Harassment Counsellors are to be forwarded to Maritime Command by 13 December 1993."*²⁰

Harassment Counsellors fill a different role from the 008 telephone number. They provide an immediate point of contact for someone who may face a problem with sexual harassment at sea or in another isolated situation. Navy's plan is to eventually replace the Harassment Counsellors with trained Good Working Relations Facilitators.²¹

10.25 Also in December 1993, Maritime Command issued a memorandum titled, *"Policy for posting women to sea"* which aims at placing women in a supportive environment when posting them. The policy states that no female junior sailor should be *"posted to a ship where there are no billeted female senior sailors or officers"*.²² Every effort would be made to post women in groups of no less than three and also to replace women who are serving in small groups of two or three with another woman if one is posted off.²³

10.26 The Committee acknowledges that there is sometimes a difficult balance to be struck between the need to ensure that a woman does not find herself intolerably isolated if she is the only woman on board and ensuring that avenues for experience essential for promotion are not unnecessarily restricted by a rigid application of a policy that women should not be posted on their own. Experience has shown that solo postings can be successful. The Committee notes, for example, that a female doctor

20 RAN's supplementary submission, Committee Hansard, p. 543.

21 It is of interest to note that an early experiment in appointing off-line contact officers at Nowra did not produce the hoped for results. It appears that such measures alone are not enough. They must be part of an integrated approach which includes leadership, commitment and an extensive education program; Mr T.H. McDonald, submission.

22 *ibid.*, p. 541.

23 While this is a commendable attempt to minimise the difficulties, it does not solve them. As one officer told the Committee: *"The trainee whom I was expected to direct and discipline as Navigator was also my closest friend and a source of mutual support"* LEUT S. Sty, submission. Committee Hansard, p. 930.

served successfully on the SWAN before the 1992 Asia deployment. She was the only woman on board at the time.²⁴

10.27 The Committee also takes note of the experience of Lieutenant Sly as the first and only woman posted to a particular patrol boat. Lieutenant Sly gave a graphic account to the Committee of the adjustments that were necessary by everyone, from the Captain down, when a ship that had always been regarded as "a real man's ship"²⁵ found that, at a day's notice, the third in charge was to be a female navigator who had never before set foot on a patrol boat. Even though this was not Lieutenant Sly's first sea posting, and she already knew a lot about life at sea, Lieutenant Sly said that:

"It must have been a real shock to their systems, as they were to mine."²⁶

Lieutenant Sly described her introduction to the boat as:

"the worst two months I had in my eight years in the Navy."²⁷

However, Lieutenant Sly told the Committee that, when her posting came to an end:

"the hardest thing I have had to do was to leave that ship."

The Committee agrees with Lieutenant Sly's conclusion that it is not the number of women who are posted to a ship that is the only or even primary factor to be considered. A great many other factors - how well the ship's crew are prepared for it, the level of skills the female personnel bring with them, and the personal characteristics of all those involved come into play. A critical factor is the need to ensure that the woman herself is well prepared, is realistic in her expectations and feels confident that appropriate support is available to her should she need it.

10.28 The Committee commends the steps that have now been taken by Navy to ensure that no female sailor or officer should experience an undue sense of isolation

24 Dr C. Moore, submission.

25 LEUT S. Sly, Committee Hansard, p. 934.

26 *ibid.*, p. 935.

27 *ibid.*, p. 983.

on board its ships. However, it is the view of the Committee that the policy developed by Navy for the posting of women at sea should not be applied so rigidly that it could disadvantage those women who find themselves in a situation where they are the only remaining female billet at a post or the only female who could be posted to a billet. Those women should be given a choice.

10.29 Comparing the situation regarding gender awareness on board the Navy's ships during 1992 and during the Senate Inquiry in 1994, Captain Mole told the Committee:

*"I suspect everybody on SWAN has now been through the gender awareness training that Maritime Command is running. I would think there would be a much higher level of awareness now. My level of awareness is much higher now that I have been through those briefing sessions than before."*²⁸

10.30 Navy also gave evidence to the Committee that the issue of behaviour in the workplace is now addressed early - even before the prospective recruit joins the Navy:

*"The issue of Good Working Relations has now become a focus for recruiting interviews and also for selection boards when personnel for Navy are selected. Indeed, it is established at those selection boards whether individuals have any particular bias for or against working in a mixed gender environment."*²⁹

10.31 The Committee believes that Navy is now on the right track and that, subsequent to the Board of Inquiry Report, its actions to address the issues of sexual harassment on its ships have been very positive. Navy's current strategy has some important components which are recognised as being effective ways³⁰ of creating a workplace free of sexual harassment. They are:

- An obvious commitment to the policy from the most senior ranks of Navy, including the Chief of Naval Staff;

28 CAPT D. Mole, Committee Hansard (in camera - released) p. 100.

29 RAN submission, Committee Hansard, p. 567.

30 Public Service Commission, *Eliminating Sexual Harassment*, Canberra, AGPS, 1990.

- An intensive and continuing education program for both supervisors and staff to raise levels of awareness and responsibility; and
- Extensive advertising of the support system put in place by Navy to deal with incidents of sexual harassment.

10.32 The Committee commends Navy's senior management for the commitment and leadership that it has provided during 1993 and 1994 towards achieving the goal of creating a working environment free of sexual harassment. Maritime Command has allocated some of its most senior officers, including the Chief of Staff and the Fleet Legal Officer to deliver the briefing sessions on Navy's policy regarding sexual harassment and unacceptable sexual behaviour. The issue of sexual harassment is now integrated in through-career courses for every rank in the Navy, beginning with new recruits. Finally, the 008 number is widely advertised and anyone with a concern about unacceptable sexual behaviour or sexual harassment can be referred to the appropriate professionals for advice and follow-up action.

10.33 The evidence before the Committee suggests that Navy's approach is heavily focussed on sexual harassment of females by males. As a result, two potential problem areas require further attention:

- the area of homosexual harassment (male and female); and
- the concern felt by men who fear being falsely accused of sexual harassment.

Whether justified or not, anxiety and anger aroused by the belief that men are now very vulnerable to false accusations must be addressed. An effective approach is to make it clear that malicious accusations, if proved, will entail career consequences as serious as punishment for proven cases of sexual harassment. Such an approach is believed to act as an effective deterrent to false or vexatious allegations.³¹

31 See Chapter 6 of this Report for further comment on this aspect.