

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO**

**Program: 1.9**

**Question No. AE16/049**

**Senator Lambie asked the following written question at the hearing on 9 February 2016:**

It's my intention today to find out why Justice Peter McClellan AM - from the Royal Commission into Institutional Abuse of Children failed to properly answer all 3 questions I put to him in a letter sent to him on 5th June 2015.

1. Does the representative from the Royal Commission agree that I sent a letter to them on the 5.6.15 and Justice Peter McClellan AM- from the Royal Commission replied to me on the same day yes or no? We are on a time limit here; I am happy to table a copies of the letter I sent and I received.

In response to my question:

- *Do the Commissioners intend to take action on said child sexual abuse in the military?*

Justice Peter McClellan AM from the Commission admitted and wrote:

- *“The Royal Commission is required by its Letters Patent to investigate, consider and report on issues relating to the sexual abuse of children in an institutional context.*
- *Military establishments, which included children, are relevant institutions.”*

However, Justice McClellan from the Royal Commission, as you'll no doubt acknowledge after reading his reply, wasn't as forth coming to these two questions, which I'd like answered today:

- What kind of action do the Commissioners intend to undertake in relation to said child sexual abuse in the Australian military?
- Has the Royal Commission requested a copy of the DLA Piper Vol. 2 report which Chair- is the room full of secret Volumes of Defence Abuse?

Let's begin by answering those two questions because I'm offended by Justice Peter McClellan AM official attempt at avoiding those 2 important questions.

2. What kind of action do the Commissioners intend to undertake in relation to said child sexual abuse in the Australian military?
3. Has the Royal Commission requested a copy of the DLA Piper Vol. 2 report which Chair- is the room full of secret Volumes of Defence Abuse?
4. Has the Royal Commission made enquiries from the Defence Department about their apprenticeship scheme- where children aged between 14 to 17 years old were employed and trained by the Australian military?
5. Is the Royal Commission aware of the fact that the Defence apprenticeship scheme was conducted from 1948 to 1993?

6. Is the Royal Commission aware of the fact that from 1948 to 1993 tens of thousands of children served and were trained as Apprentices in the ADF?
7. Has the Royal Commission ever established exactly how many children served and were trained as Apprentices in the Australian Military?
8. I estimate that up to 30,000 Australian Children served and were trained as Apprentices in our Military over the 45 years between 1948 and 1993. Do you disagree with my calculations?
9. Does the Royal Commission think that the safety of 30,000 children who were in the care of an Australian Military Institution –is just as important as the tens of thousands of children in the care of the: Roman Catholic Church, Scouts Australia, The Salvation Army and the Uniting Church?
10. Has the Royal Commission been made aware of allegations of institutional child sex abuse in our Defence Force?
11. Apart from my letter has the Royal Commission been made aware of the secret volumes of the Defence Abuse Review Task force?
12. (If Yes) I'd like a list which shows the total numbers of communication broken down into letters, emails and phone calls that have been made by the Royal Commission between its self and the defence department and Military. (put it on notice)
13. I'd like a list which shows the total amount of communication broken down into letters, emails and phone calls that have been made by the Royal Commission between its self and the department of veterans affairs (Put it on Notice)
14. Does the Royal Commission have independent powers of prosecution- or will it reply on either federal or state attorney's general to prosecute alleged offenders? (Y/N)
15. Must the attorneys general or DPP's follow your recommendations with regards to prosecuting alleges sexual offenders? (Y/N)
16. Given the high numbers of children who served in our military, is it likely that there were or still are paedophiles who have served in our military and have never been brought to justice for their sex crimes and assaults? (Y/N)
17. Would you agree that should your Royal Commission fail to conduct hearings into institutional child sex abuse in our military between 1948 and 1993- that failure given- that Justice Peter McClellan AM has admitted in writing to me:
  - *"Military establishments, which included children, are relevant institutions."*

Could in itself be viewed by ordinary Australians as either gross dysfunction or evidence of a high level cover up of child sex abuse and/or corruption?

**The answer to the honourable senator's question is as follows:**

1. Yes.
2. The Royal Commission held a public hearing, Case Study 40, in June 2016 examining:
  - a. The experiences of survivors of child sexual abuse of the following institutions operated by the Australian Defence Force (ADF):
    - i. HMAS Leeuwin in the period 1960 to 1980
    - ii. The Army Apprentice School Balcombe in the period 1970 to 1980, and
    - iii. ADF Cadets in the period 2000 to present.
  - b. The systems, policies, practices and procedures of the ADF and the ADF Cadets to prevent child sexual abuse, and raising and responding to concerns and complaints about child sexual abuse, in the above listed institutions.
  - c. Any related matters.

The written submissions of all parties involved in the public hearing are available on the Royal Commission's Case Study 40 webpage:

<http://www.childabuseroyalcommission.gov.au/case-study/bfb3bfe0-8b4b-4cc8-923b-00ffff789ff5/case-study-40,-august-2016,-sydney>

At this time, the Royal Commission is unable to provide a likely timeframe for the release of the Report of Case Study 40, which will contain the Royal Commission's findings from the public hearing.

The Royal Commission will hold a public hearing, Case Study 51 (Commonwealth, State and Territory Governments), on 6-9 March 2017, which will inquire into a number of matters including:

The steps taken by the Department of Defence in response to commitments made during the public hearing of Case Study 40 in relation to the current systems, policies and procedures of the Australian Defence Force to prevent, raise and respond to concerns and complaints about child sexual abuse.

3. The Royal Commission does not comment on its investigations.
4. See the response to question 2.
5. See the response to question 2.
6. See the response to question 2.
7. See the response to question 2.
8. See the response to question 2.
9. See the response to question 2.
10. See the response to question 2.
11. The Royal Commission does not comment on its investigations.

12. The Royal Commission does not comment on its investigations.
13. The Royal Commission does not comment on its investigations.
14. The Royal Commission does not have powers of prosecution. The Royal Commission has referred more than 1,900 matters to the appropriate law enforcement agencies in the states and territories. As a result of the referrals by the Royal Commission, 104 prosecutions have been initiated by appropriate law enforcement agencies in the states and territories.
15. The Royal Commission does not have the power to compel an Attorney-General or Director of Public Prosecutions to follow its recommendations.
16. See the response to question 2.
17. See the response to question 2.