Working with Women Alliance

Defence Amendment (Sexual Assault Prevention, Intervention and Response Commission) Bill 2025

Submission by the Working with Women Alliance (WwWA)

February 2026

Acknowledgment of Country

The Working with Women Alliance acknowledges the Traditional Custodians of the land on which we work and live.

We pay our respects to Aboriginal and Torres Strait Islander Elders past and present, and we value the enduring connection Aboriginal and Torres Strait Islander people have to this land.

We value Aboriginal and Torres Strait Islander histories, cultures, and knowledge.

About WwWA

The Working with Women Alliance (WwWA) represents two key portfolios: National Women's Safety (NWS) and National Women's Equality (NWE).

The WwWA connects the critical areas of gender-based violence prevention and the advancement of women's economic equality and leadership, bridging these important policy fields for greater impact.

We work with members and stakeholders, including the Australian Government, to provide expertise and advice on gender equality and women's safety.

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Executive Summary

This submission welcomes the introduction of draft legislation establishing a Sexual Assault Prevention, Intervention and Response Commission within the Australian Defence Force (ADF). The Working with Women Alliance (WwWA) applauds the Government's objective of achieving an ADF with zero incidence of sexual assault and commends the explicit recognition that meaningful cultural change across all levels of Defence is essential to realising this goal. This initiative is both timely and necessary, particularly following significant cuts to previous efforts to tackle high rates of sexual assault within the ADF[1] which left a significant gap in institutional accountability and survivor support.

WwWA strongly supports the inclusion of restricted reporting provisions, noting their critical role in enabling victim-survivors to disclose incidents safely and with confidence. These measures address longstanding barriers to reporting, as evidenced in the 2023 Workplace Behaviours Survey, which found that lack of trust in senior personnel to manage complaints sensitively and confidentially remains a key deterrent to disclosure.[2] By ensuring immediate, confidential access to support services without requiring the commencement of a formal investigation, the proposed framework places control and autonomy back in the hands of victim-survivors. This trauma-informed approach recognises the variation in how individuals process and report sexual assault, allowing survivors to disclose when they are ready and in a variety of ways. Importantly, it reduces the risk that reporting will negatively impact careers, while providing a safe environment for recovery and continued service.

While this draft legislation represents an important and welcome advancement in the ADF's response to sexual assault, there remains areas for refinement to ensure the Commission can operate effectively and deliver lasting cultural change.

Limits of Military Prosecution

WwWA holds significant concerns about the assertation that the most effective way to prosecute alleged perpetrators is to bring cases back under the purview of the military prosecutorial and judicial systems. Military tribunals and courts-martial do not

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[1] Eleanor Campbell, 2024, *ADF cuts sexual violence initiative after $18k review*, The Canberra Times, https://www.canberratimes.com.au/story/8739227/defence-scraps-group-tackling-military-sexual-assault/

[2] Claudia Long, 2024, *Defence forced to release data showing female trainees still facing high rates of harassment*, ABC News, Defence forced to release data showing female trainees still facing high rates of harassment - ABC News

directly award victim compensation as part of their criminal sentencing, leaving victim-survivors to pursue separate, often complex, pathways for financial redress.

Further, as outlined in the Defence and Veteran Suicide Royal Commission (Royal Commission), the outcomes of sexual offence prosecutions within the military system are not transparently reported.[3] The Judge Advocate General's annual reports list offences only under section 61 of the *Defence Force Discipline Act 1982* (Cth), making it impossible to determine how many sexual offence charges result in conviction or detention. The Royal Commission also found that civilian police are generally best placed to investigate serious sexual offences, particularly penetrative assaults, given their specialised experience. Returning these matters to military jurisdiction risks re-instating a precedent of limited transparency, accountability, and victim participation. In particular, the current Practice Note does not require prosecution counsel to invite victims to make Victim Impact Statements, a gap that needs immediate attention. Should this legislation proceed, we strongly urge the Committee to concurrently implement Recommendation 20 of the Royal Commission - to amend sentencing provisions for military sexual offences - and to reconsider the concentration of investigative, disciplinary, and decision-making powers within the chain of command, which continues to create real and perceived bias and restrict meaningful rights of review.

Systemic Gaps in Addressing Gendered Violence

The bill operates on the flawed assumption that sexual assault in the ADF is best addressed through the creation of a stand-alone regulatory regime. While the establishment of a new commission represents important progress, it does little to resolve underlying systemic deficiencies. In civil contexts, workplaces are legally obligated to take proactive steps to prevent sexual harassment and manage psychosocial hazards under WHS law. However, the ADF remains excluded from key components of national workplace safety standards, including the *Fair Work Act 2009 (Cth)* and independent access to the Fair Work Commission.

Defence should not remain exempt from the employment and safety standards that every other Australian employer is expected to uphold. In the past, the ADF has

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[3] Royal Commission into Defence and Military Suicide, 2024, *Military sexual violence, unacceptable behaviour and military justice*, Final Report - Volume 3: Military sexual violence, unacceptable behaviour and military justice

responded to issues such as bullying, discrimination, psychosocial harm, and suicide with new, separate frameworks but is yet to address inherent structural weaknesses. WwWA notes that Defence has established the Defence Respect@Work Framework[4] and associated internal responsibilities and expectations for leaders and personnel, including accountability of the Senior Leader Group for preventing and responding to unacceptable behaviour. The Government indicated that by the end of 2025, the Australian Human Rights Commission would deliver an assessment to inform Respect@Work Action Plans for each service,[5] in response to Recommendation 10 of the Royal Commission[6] (The Australian Human Rights Commission should undertake an independent assessment of the extent to which underlying drivers, risk and protective factors in the Defence Respect@Work Framework are present in each service), and recommend actions to address gaps and known risks. Now two months into 2026, there is little information available about the progress of that assessment.

Defining standards for qualifications

The draft legislation's use of terms such as "suitably credentialed personnel," "properly qualified," and "necessary experience" fail to specify standards for competencies that risk inconsistent implementation. Without clear benchmarks, victims may end up supported by individuals who are ill-equipped to deliver appropriate assistance. For example, someone deemed 'suitable' could encompass anything from completing an online module to specialist trauma training, which is a significant degree of ambiguity.

The requirements for certification and maintenance or revocation of that certification should be extended to all roles listed under Section 110ZMU, subsection 63; victim survivor advocates, SARCs, statutory inquiry officers, sexual assault investigators, first line/level supervisors, commanders and managers, health services and medical personnel, psychologists, chaplains, pastoral care providers, and maritime spiritual well-being officers, legal officers and victim survivors' legal counsel, case managers, commanding officers.

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[4] Department of Defence, 2024, *Respect at work*, https://www.defence.gov.au/about/staff-resources/staff-announcements/respect-work
[5] The Hon Matt Keogh MP, 2025, *National Press Club Address: The Royal Commission into Defence and Veteran Suicide, 12 months on*, https://minister.dva.gov.au/news-and-media/minister/national-press-club-address-royal-commission-defence-and-veteran-suicide-12-months-0
[6] Royal Commission into Defence and Veteran Suicide, 2024, *Final Report – Volume 2: Serving the nation, and Defence culture and leadership*, https://defenceveteransuicide.royalcommission.gov.au/publications/final-report-volume-2

WwWA strongly recommends that the legislation be amended to include explicit, objective requirements for qualifications, training, and experience, possibly replicating those listed under the SCHADS Award.

Diverse and Inclusive Consultation

Engaging in consultation is an important opportunity to embed genuine representation and lived experience into the Commission's design and operation. Consideration should be given to establishing a lived experience advisory panel or equivalent consultative mechanism to ensure that policy and decision-making processes are directly informed by those with firsthand experience. At a minimum, the legislation should require the Commissioner to consult with individuals and organisations representing lived experience, as well as Aboriginal and Torres Strait Islander peoples, multicultural communities, and other marginalised groups. Research consistently shows that members of these groups are both over-represented among victim-survivors of sexual assault[7] and under-represented within the Defence workforce.[8] Without a formal requirement for inclusive consultation, their perspectives risk being overlooked in the implementation of this critical reform.

Improving Reporting Pathways

Significant gaps in the way information about civilian legal matters is shared and managed within the Australian Defence Force (ADF) could undermine the effectiveness of responses and interventions to sexual assault within the Commission. Currently, ADF members are required to self-report civilian arrests, charges, or convictions. However, this reliance on self-reporting raises serious questions about the completeness and reliability of available information. It remains unclear whether unreported or unknown civilian charges could affect subsequent prosecution or sentencing. Furthermore, civilian police do not routinely notify the ADF about family violence or personal safety intervention orders unless the matter escalates to a breach

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[7] Australian Law Reform Commission (ALRC), 2010, *The prevalence of sexual violence*, https://www.alrc.gov.au/publication/family-violence-a-national-legal-response-alrc-report-114/24-sexual-assault-and-family-violence-2/the-prevalence-of-sexual-violence/; Laura Doherty and Christopher Dowling, 2024, *Perpetration of sexual violence in a community sample of adult Australians*, Australian Institute of Criminology, Perpetration of sexual violence in a community sample of adult Australians, Australian Bureau of Statistics, 2021, *Sexual Violence – Victimisation*, Sexual Violence - Victimisation | Australian Bureau of Statistics

[8] Department of Defence, 2017, *Defence Diversity and Inclusion Strategy*, Defence Diversity and Inclusion Strategy 2012-2017

or meets specific "notifiable incident" criteria,[9] such as media coverage. Consideration should be given to whether the proposed Commission could establish mechanisms to access or collect relevant historical and concurrent data from state and territory authorities, thereby strengthening its oversight and capacity to identify risk, patterns of behaviour, and systemic failures.

Recommendations

1. Reconsider bringing cases back under the purview of the military prosecutorial and judicial systems.
2. Include explicit, objective requirements for qualifications, training, and experience - replicating the SCHADS Award model.
3. Concurrently implement Recommendation 20 of the Royal Commission - amend Section 70 of the Defence Force Discipline Act 1982 (Cth) to;
    a. expressly require service tribunals to consider the impact of a sexual offence on the victim as a factor during sentencing, including a victim impact statement if one has been made, and allow the victim to read their statement aloud if they choose to do so, in a closed or open court
    b. make it clear that if an offender is of higher rank than a victim, this should be considered an aggravating factor for the purpose of sentencing.
    c. require the prosecution counsel to invite victims to make a victim impact statement for consideration by the service tribunal during sentencing.
4. Extend protections with the Fair Work Act 2009 (Cth) to ADF members.
5. Require the Commissioner to consult with individuals with lived experience and organisations representing marginalised groups.
6. Establish mechanisms to access or collect relevant historical and concurrent data from state and territory authorities.

The Alliance welcomes the opportunity to provide further advice and work with Government on this proposal going forward.

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[9] Department of Defence, 2011, *Review of the Management of Incidents and Complaints in Defence including Civil and Military Jurisdiction*