

# Part 8

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## Beyond the Royal Commission

### Recommendation 122



## 30 Beyond the Royal Commission

### Summary

This final report has highlighted the scale, contributing risk factors and overarching drivers of suicide and suicidality among serving and ex-serving Australian Defence Force (ADF) members. We have made recommendations aimed at harm prevention and early intervention, improving delivery of services and supports, coordination between agencies, and changing cultural and institutional practices within the Department of Defence and the Department of Veterans' Affairs.

In this chapter, we call for the Australian Government to create a new entity with specific responsibility for, and focus on, preventing the suicide of our serving and ex-serving ADF members.

A new entity is needed because oversight and accountability for the wellbeing of serving and ex-serving ADF members is currently fragmented across multiple agencies. These agencies lack the capabilities to address the complexity of defence and veteran suicide and the interplay of risk factors. They lack expertise in the defence and veteran ecosystem, service life and post-service support needs and services provision. Agencies have often resourced and prioritised short-term responses rather than long-term solutions. Having an entity specifically focused on the wellbeing of serving and ex-serving ADF members will help Defence remain an attractive career proposition when it is facing a recruitment shortfall and retention crisis.

Here, we set out our proposed model for the new entity – a non-corporate Commonwealth statutory agency. We consider Australian Government guidance for establishing new entities, together with the requirements of our terms of reference and the expectations of stakeholders. We examine existing oversight agencies and why none could deliver on the requirements and responsibilities of the proposed entity. We look at the precedent set by previous royal commissions that recommended the establishment of standalone entities to address systemic problems and monitor the implementation of their recommendations.

Recommending a new entity will not relieve or absolve the departments of Defence and Veterans' Affairs, and other relevant agencies, of their obligations to address issues affecting the wellbeing of serving and ex-serving ADF members. Rather, the statutory agency we propose would help them discharge those responsibilities more effectively. A statutory agency with internal expertise in the multiple drivers behind suicide and suicidality, and the experience of service and post-service life will be able to provide evidence-based advice on data and trends. Its singular focus will enable more effective consideration of the multitude of factors and influences that contribute to suicide and suicidality among serving and ex-serving ADF members.

Establishing a new independent oversight entity would demonstrate that the lives of those who serve this country are valued and that Australia is committed to protecting the lives of those who protect us.



## 30.1 Introduction

1. This Royal Commission was tasked with identifying systemic issues and themes behind the national crisis of suicide and suicidality among serving and ex-serving members of the Australian Defence Force (ADF). We were also responsible for proposing solutions to support the wellbeing of serving and ex-serving ADF members and their families.
2. As this final report has outlined, cultural and institutional practices within Defence (both the department and ADF) and the Department of Veterans' Affairs (DVA) have contributed to an environment of risk, and have hindered the prevention of suicide and suicidality among serving and ex-serving ADF members.
3. Risks to wellbeing arise, or are exacerbated by, experiences of unacceptable behaviour and moral injury, interaction with the military justice system, exposure to trauma, physical injury and illness, separation from family and family disruption. Risks also result from the social, psychosocial and economic challenges of reintegrating into civilian communities and accessing meaningful support following separation from the ADF.
4. Reducing the persistently high rates of suicide and suicidality among serving and ex-serving ADF members therefore requires action to address this complex interaction of stressors that impact physical and mental wellbeing throughout service and post-service life.
5. In this final report, we have made numerous recommendations aimed at harm prevention and early intervention, including the provision of timely supports tailored to individual needs. Our recommendations aim to improve how supports are accessed and received, and to increase coordination, collaboration and cohesion between agencies that deliver those supports. We have also identified the changes required to build capability and capacity within Defence and DVA to ensure that care is applied consistently and aligned with best practice. Additionally, we propose measures to enhance transparency and accountability for improved outcomes.
6. Our recommendations include actions to be taken immediately, as well as proposals that require sustained, long-term effort and attention.
7. In our interim report, delivered in August 2022, we identified a compelling case to establish a new entity that would drive lasting systemic reform to reduce rates of suicide and suicidality, and monitor and report on the implementation of our recommendations and those of previous inquiries.<sup>1</sup>
8. Having now concluded our inquiry, we re-affirm our view that establishing a new entity with a dedicated and sustained focus on suicide prevention is the most significant action the Australian Government can take to address defence and veteran suicide.



9. By monitoring, reviewing, investigating and reporting on actions taken to prevent suicide and suicidality, a new entity can be a catalyst for change across Australian Government agencies. It can improve transparency, accountability and performance around the policies, programs, systems and practices that impact suicide and suicidality among serving and ex-serving ADF members.
10. In this chapter, we outline our recommendation for establishing a new, independent oversight entity to follow this Royal Commission. We:
  - examine shortcomings within the existing oversight architecture
  - identify the benefits of improved oversight
  - propose key functions and powers for a new entity that would best achieve its purpose
  - explain the considerations that have informed our thinking.

## 30.2 Systemic shortcomings within the existing oversight architecture

11. Effective oversight can drive reform through greater transparency and accountability. Shortcomings within the existing oversight architecture, in particular its fragmented nature, demonstrate the need for a new entity to fill these gaps.

### 30.2.1 No single agency targets suicide and suicidality

12. A combination of agencies have oversight and accountability responsibilities for serving and ex-serving ADF members, as set out in section 30.5.1. However, none of these agencies has a mandate to monitor the 'ecosystem' of agencies responsible for the wellbeing of serving and ex-serving ADF members and their families (referred to collectively as the defence and veteran ecosystem) through the lens of suicide prevention.
13. Consequently, oversight has largely focused on discrete issues that contribute to suicide and suicidality, or the actions of a single agency, policy or program. This fragmented and narrow approach does not support a systems-level understanding of suicide and suicidality. Examining risk factors in isolation fails to account for the typically complex interactions between risk and protective factors that may be present in a serving or ex-serving ADF member's life.
14. Responsibility for suicide prevention needs to be widely embedded. This requires an integrated and collaborative approach between Defence, DVA, other agencies and non-government organisations at federal and state and territory levels. This is further complicated by the defence and veteran ecosystem having many component parts, while services are delivered through multiple agencies and providers.



15. Having a single entity focused on suicide and suicidality among serving and ex-serving ADF members could rectify this. The entity would provide:
  - *visibility* – every actor within the defence and veteran ecosystem would know there was an entity responsible for ensuring all Australian Government agencies (including Defence and DVA) were held accountable for their performance in preventing suicide and suicidality
  - *coherence* – different risk factors and institutional drivers of suicide and suicidality can be considered together, supported by strong internal capability
  - *coordination* – the efforts of states, territories and ex-service organisations (ESOs) could be better coordinated with those of the Australian Government.
16. Current oversight mechanisms do not enable system-wide visibility to reveal what is and is not working to reduce rates of suicide and suicidality among serving and ex-serving ADF members. Opportunities are being lost for systemic reforms to prevent suicide and suicidality among this cohort. In the absence of a new entity, oversight will remain fragmented and the impact of interventions may be limited.

### 30.2.2 Limited capability among existing agencies

17. Existing agencies lack the capabilities needed to address the complexity of defence and veteran suicide.
18. Preventing suicide and suicidality among serving and ex-serving ADF members requires knowledge and awareness of both the context of service and post-service life, and the experiences of serving and ex-serving ADF members and their families.
19. It requires expertise about the multiple drivers of suicide and suicidality. As our final report shows, risk factors for suicide and suicidality cut across many domains. They include housing and financial security, family and interpersonal relationships, access to services and supports, and psychosocial factors such as feelings of purpose and belonging. The interactions between these factors can be complex. There can also be significant time lags between exposure to risk factors during service and that exposure causing suicide and suicidality post-service.
20. Preventing suicide and suicidality among serving and ex-serving ADF members also requires an understanding of the institutions that are involved. They include all parts of the defence and veteran ecosystem, and the agencies, policies and programs within it. This requires an ability to navigate large and complex bureaucracies spanning portfolios and jurisdictions.
21. Addressing the problem requires familiarity with the people that experience it. This too, is complex. The number of serving and ex-serving ADF members is large, at over 580,000 (as of 2021).<sup>2</sup> Their experiences and characteristics are not the same as those of the general Australian population, meaning specialised approaches will be required. They are also not a homogeneous group, and different cohorts will have specific needs.



22. No existing agency has the capability to meet all these requirements, as we discuss in section 30.5.1.
23. This Royal Commission's experience demonstrated the level of comprehension required to address suicide and suicidality among serving and ex-serving ADF members. Building capacity within this Royal Commission required:
  - meaningful and continuous engagement with serving and ex-serving ADF members
  - improved data capability
  - an understanding of operational, political and policy contexts
  - personal engagement with the lived experience of suicide and suicidality shared by serving and ex-serving ADF members and their families
  - coordination with ESOs.
24. Only a new entity with the expertise to navigate these complex issues will be able to build the required capability and provide the necessary level of oversight to reduce suicide and suicidality among serving and ex-serving ADF members.

### 30.2.3 A lack of long-term oversight

25. Previous inquiries and review bodies have operated for a limited and usually short period, with minimal or no follow-up once their reports had been released. As a result, agencies within the defence and veteran ecosystem have not been held accountable for measuring the effectiveness of reforms implemented following the recommendations of previous inquiries or reviews, or demonstrating positive outcomes.
26. This has contributed to a dynamic where agencies often resource and prioritise short-term responses rather than long-term solutions. This is not effective in addressing suicide and suicidality, where causes are complex and entrenched. They need time, focused attention and specialised capability to resolve. We note more than 750 recommendations of previous inquiries and reviews have resulted in some changes and improvements, but not the level of reform envisaged or needed.
27. Measuring the effects of interventions, reforms and actions to address suicide and suicidality among serving and ex-serving ADF members will require short- and long-term monitoring and evaluation.<sup>3</sup>
28. A standing entity with a clear mandate and powers to enable external scrutiny of relevant agencies would address the limitations of previous time-limited inquiries. Critically, it would hold agencies accountable for their actions over the short, medium and longer terms. It could ask:



- Are agencies doing what they have committed to do?
  - Are programs working as intended?
  - What outcomes does the data demonstrate?
  - What more is needed?
29. Without a new entity of this kind, the current approach will continue to focus on short-term individual measures. It will fail to promote and refine long-term measures to tackle suicide and suicidality among serving and ex-serving ADF members.

### 30.3 The benefits to government of a new entity

30. Suicide is preventable. During the course of our inquiry, we heard extensive evidence regarding the strategies and actions that can and should be taken to mitigate suicide and suicidality. Suicide prevention requires sustained investment, focus and leadership.
31. Strong independent oversight can help drive reform in support of a defence force that is modern, responsive and people-centred. Such scrutiny can encourage Defence to make changes that are in the interests of itself and its members.
32. Given the current recruitment and retention crisis, Defence needs to improve its approach to member wellbeing if service in the ADF is to remain an attractive career prospect in a competitive labour market.
33. The oversight mechanism we propose will help the ADF to become a safe, healthy and supportive workplace, and one that is more in line with community expectations. Potential recruits will have confidence Defence is being held accountable for improved wellbeing standards, and that government and the community have clear visibility of its performance in this area.
34. Establishing a new independent oversight entity focused on suicide prevention would send a clear signal the Australian Government recognises the gravity of the crisis. It would signal that veterans' lives are valued, that suicide prevention objectives are embedded, and the government is determined to address this issue on an ongoing basis.
35. As our external consultation process demonstrated many in the defence and veteran community would value such a signal, as discussed in section 30.5.3. We believe it will help restore confidence and trust in Defence and DVA. Failing to proceed with establishing a new oversight entity risks sending the opposite signal.



## 30.4 Our proposed model for a new entity

36. In identifying the purpose, functions and powers of the new entity, we have closely considered Australian Government guidance for establishing new entities, including Department of Finance guidelines. The model we propose is as consistent with government policy as possible, while still delivering on the outcomes required by our terms of reference and reasonably expected by stakeholders.

### 30.4.1 Purpose and functions of the new entity

37. We recommend the Australian Government establish a new entity with the purpose of:

Providing independent oversight and evidence-based advice to drive system reform to improve suicide prevention and wellbeing outcomes for serving and ex-serving ADF members.

38. The new entity will achieve its purpose through the following functions:

- monitor, investigate and report to the Minister and Parliament on:
  - data and trends regarding suicide and suicidality among serving and ex-serving ADF members
  - systemic factors relating to the Australian Government's administration of policies, programs, systems and practices that contribute to suicide and suicidality among serving and ex-serving ADF members
  - the progress and impact of the Australian Government's implementation of our recommendations, and their outcomes once implemented
  - the state of the defence and veteran ecosystem, as it relates to the prevention of suicide and suicidality, including:
    - the cultures of Defence and DVA
    - the availability and effectiveness of prevention and early intervention programs
    - levels of collaboration across the defence and veteran ecosystem, including engagement with families of serving and ex-serving ADF members
- provide independent evidence-based advice, promote the voice of lived experience, build capacity, and improve supports for serving and ex-serving ADF members
- anything incidental or conducive to the performance of the above functions, to help identify opportunities for improvement, priorities and interventions. This would include:



- collaborating with other agencies (government and non-government) and other relevant Ministers
- commissioning and undertaking research
- engaging with people with lived experience.

### 30.4.2 Key design features

39. The way that an entity is designed and described in legislation fundamentally influences the impact and influence it will have, whether it is able to deliver on its vision successfully, and the way it is perceived by stakeholders. There are many design features that influence, for example, the independence of an entity.
40. We have drawn on relevant Australian Government guidance to identify the key design features of the new entity. This includes Department of Finance publications relating to the *Public Governance, Performance and Accountability Act 2013* (Cth) (the PGPA Act); policies including the Commonwealth Governance Structures Policy; Australian Public Service Commission and Australian National Audit Office publications regarding good governance; and the Office of Parliamentary Counsel Drafting Directions about Commonwealth bodies.<sup>4</sup>
41. We have proposed a design that balances the need for an independent entity that is able to hold Defence and DVA accountable for suicide and suicidality prevention with the need to ensure the new entity is appropriately accountable to the Australian Government. The design also ensures there is clarity around the application of important legislation, including the PGPA Act and the *Public Service Act 1999* (Cth).

### Type of entity

42. We are of the view that the most appropriate structure for the new entity is a non-corporate Commonwealth entity – specifically, a listed entity. It should be established as a statutory agency through purpose-specific enabling legislation.
43. A non-corporate Commonwealth statutory agency would best support the purpose and functions outlined above. It is consistent with Australian Government policy<sup>5</sup> that guides decision-making regarding fit-for-purpose governance arrangements, in that it:
  - reflects the level of autonomy and independence required
  - is appropriate for the expected size of the organisation (staff and budget)
  - provides operational efficiency, with a focus on minimising unnecessary demand on public sector resources
  - sets the appropriate level of accountability to Parliament and the public.
44. Enabling legislation would set out matters relevant to the new entity including the powers it needs to fulfil its functions. These matters are described in later sections.



45. Other entity types were considered as part of our design process, including other primary bodies, secondary statutory structures and secondary non-statutory structures. However, we found these alternative entity types were unsuitable. This is because they are either not proportional in terms of the expected size, activities and funding arrangements intended for the new entity (in relation to corporate Commonwealth entities) or they do not provide for the independence and powers required (in the case of secondary statutory and non-statutory structures).

## Independence

46. The new entity must not only be independent but also seen to be independent. This is crucial for maintaining community confidence in the entity and support from serving and ex-serving ADF members. This independence is also necessary to enable it to carry out its role and functions effectively.
47. While the new entity will have accountabilities to the Australian Government (including under the PGPA Act), the legislation will set out its functions. As there will have been parliamentary oversight in the setting of those functions in law, it is important the new entity can then perform those functions without interference.
48. Consistent with many other types of similar legislation, we propose that the enabling legislation would expressly state the entity has discretion in performing its functions and powers. The Minister would not be able to direct the entity on these matters, but we propose that the Minister should have the power to direct the entity to conduct a particular review. This is so the entity can be responsive when different areas of government identify pressing matters requiring inquiry that relate to the entity's functions.

## Information-gathering powers

49. A key function of the new entity will be understanding the administration of Australian Government programs that contribute to suicide and suicidality among serving and ex-serving ADF members. Equally important will be holding Australian Government agencies accountable for implementing this Royal Commission's recommendations.
50. We would expect strong collaboration and information sharing between Australian Government agencies to enable the new entity to perform its role. However, we are not confident this will always occur. As such, we believe it is necessary for the legislation to expressly provide the entity with appropriate powers of inquiry to obtain relevant information from Australian Government agencies.
51. These powers will enable the head of the new entity to obtain necessary information from those agencies, or any other person or body, if they have reason to believe they have information or a document relevant to the new entity's functions.



52. To deliver on its core purpose, the new entity should prioritise inquiry into and reporting on:
- issues that are systemic, widespread and serious, including the prevention and reduction of suicide and suicidality among serving and ex-serving ADF members
  - decisions made in response to the recommendations of this Royal Commission, and such other inquiries as the new entity considers appropriate
  - the implementation of such recommendations as are accepted or any alternative measures that may be adopted.
53. We recommend the enabling legislation give the entity the powers (to be exercised in pursuit of the new entity's purpose and functions) to:
- issue notices requiring the production of documents and information
  - conduct hearings (summoning witnesses and requiring evidence on oath or affirmation).
54. Offences for failing to give the information, produce a document, or appear as requested should also be included in the legislation, as should offences for the provision of false or misleading information or documents.
55. There is precedent for this approach in the *Inspector-General of Aged Care Act 2023* (Cth), which provides for coercive information gathering. Failure to comply with such a request is an offence. Certain privileges (such as against self-incrimination, self-exposure to a penalty and legal professional privilege) apply in relation to the giving of information and how it may be used in the future.

## Reporting

56. The new entity would have routine reporting obligations as part of its obligations under the PGPA Act. This would include publishing an annual report, including an annual performance statement.
57. The legislation should provide for the new entity to report to Parliament and/or the relevant Minister (where the Minister has requested such a report) on particular matters and/or investigations. This reporting will support independence and transparency. It will provide the public with oversight of progress towards preventing suicide among serving and ex-serving ADF members, including the implementation of the recommendations of this Royal Commission and the achievement of wellbeing outcomes for serving and ex-serving ADF members.
58. We do not believe every report should be addressed to Parliament. Some reports will be more suitably addressed elsewhere. For example, a report on a matter specific to the Army might sensibly be addressed to the Chief of Army – as well as being made public by the new entity – without needing to be tabled in Parliament.



59. The new entity will, from time to time, need to examine matters dealing with national defence and, other times, matters of personal privacy. Therefore, while its primary requirement must be making reports public, it should be empowered to issue confidential reports in specific circumstances.

## **Other matters for inclusion in the enabling legislation**

### **Establishment date**

60. We recommend the new entity be established expeditiously and as a priority, no later than 30 September 2025.
61. This timing represents 12 months from delivery of this Royal Commission's final report. We believe this is sufficient time for the Australian Government to consider our recommendations, conduct further consultation and pass the enabling legislation.

### **Accountable authority**

62. All non-corporate Commonwealth entities have an 'accountable authority' that sits at the apex of the organisation and is responsible for:
- governing the entity
  - contributing to the priorities and objectives of government
  - establishing and maintaining appropriate systems relating to risk management and oversight and internal controls
  - encouraging officials to cooperate with others to achieve common objectives
  - considering the effects of imposing requirements on others
  - keeping the relevant Minister and the Finance Minister informed.<sup>6</sup>
63. The head of the new entity should be its accountable authority. The title of this position is ultimately a matter for the Australian Government to determine.
64. Consistent with the approach commonly adopted for other heads of statutory agencies, we propose that the Governor-General appoint the head of the new entity, on the recommendation of the Minister, for a term of up to 5 years. They should hold office on the terms and conditions determined by the Governor-General (to the extent that they are not covered by the Act). Their remuneration would be determined by the Remuneration Tribunal.



65. The new entity must have strong and effective leadership. To reduce the risk of actual or perceived politicisation of the appointment, we strongly recommend specific safeguards, including:
- publicly advertising the role, along with the selection criteria
  - establishing an independent panel to assess applicants against the selection criteria, and provide a shortlist of suitable candidates to the Minister
  - limiting the Minister's selection of the appointment from the shortlist.
66. Consequently, in making their recommendation to the Governor-General, the Minister for Defence must have the concurrence of the Minister for Veterans' Affairs and must be satisfied that:
- the person for the appointment has relevant experience, and is not a recent (5 years or fewer) serving member
  - the selection of the person for the appointment is the result of a merit-based process that included public advertising of the position.

## **Staffing**

67. Legislation establishing statutory agencies needs to deal with the staffing of those agencies. It is proposed that staff of the new entity could be engaged under the *Public Service Act 1999* (Cth). This ensures matters such as engagement of Australian Public Service (APS) employees, classifications, terms and conditions, and moves between agencies can be dealt with consistently and fairly for APS employees. This is also the Australian Government's preferred approach for statutory agencies of this type.
68. The legislation should also enable the head of the new entity to negotiate with states and territories to engage state and territory employees to assist with the performance of its functions, as well as to engage consultants.

## **Secrecy provisions**

69. Overriding the operation of secrecy provisions in other legislation promotes an environment of disclosure. It ensures that information can be forthcoming (without fear of breaching another Australian Government secrecy regime) where it is reasonable, necessary and proportionate for the new entity to be comprehensively informed by all relevant information in the performance of its functions.



70. It is proposed that the legislation include:
- secrecy provisions that lift prohibitions on information that people can disclose (such that a person is not excused from disclosing relevant information, producing a document or a thing or answering questions despite a prohibition set out in another law)
  - any specific exceptions (where the secrecy provisions of another law would not be overridden, such that a person may not need to give certain information, produce a document or thing, or answer certain questions).
71. Precedent for this approach is evident in the Inspector-General of Aged Care Act. It ensures a person is not excused from giving information that is requested under that Act on the grounds that doing so would breach a particular secrecy of information provision that is specified, unless it is a secrecy provision that is expressly stated as not being overridden. An example of the latter is that a person does not have to provide access to personal medical information protected under the *My Health Records Act 2012* (Cth).
72. We note the approach to secrecy provisions (and the duties of non-disclosure more broadly) – including the need for specific laws and the intersection of laws of general application – will require detailed consideration during the legislative process in consultation with relevant Australian Government departments.

## **Protections for disclosures**

73. The proposed new entity would not manage complaints from individuals relating to other Australian Government agencies, nor would it investigate individual disputes about them. This is to ensure a systems-level focus and to prevent the duplication of functions with other complaints handling bodies. However, it is likely that through the course of examining or investigating the systemic approach taken by agencies, individuals may wish to make protected disclosures.
74. The enabling legislation must set out the protections that may be available to persons who make a disclosure to the new entity.
75. It is proposed the legislation include:
- protections for those disclosing information to the entity (including provisions relating to confidentiality of the identity of people who make disclosures)
  - prohibitions on victimisation
  - immunity from liability for certain disclosures made to the entity.
76. Such provisions would signal the value of disclosures and promote a culture that encourages and protects such disclosures.



77. Precedents for this approach include the protections available under the *Corporations Act 2001* (Cth) for disclosures to a range of bodies including Australian Securities and Investments Commission and the Fair Work Commission.

## **Referrals of information**

78. The new entity may receive information that is highly relevant to the functions of another Australian Government agency. Subject to the necessary controls and consents, it is important that the entity can share such information with the other agency including to avoid 'working in silos', which could pose real risks to serving and ex-serving ADF members and others.
79. The new entity should, therefore, have the power to make referrals to relevant agencies.

## **Independent review of the new entity**

80. We see value in an independent review of the new entity after 10 years of operation. As outlined in this report, suicide prevention is multifaceted and long-term outcomes may not be realised for some time. Difficulties in measuring outcomes are further compounded by limited data, long timeframes between some interventions and outcomes, and challenges attributing suicide prevention activities with outcomes, given these activities do not typically operate in isolation.
81. Therefore, it is important that appropriate measures of success are identified for the short, medium and long terms.
82. The review would seek to ensure that the entity's functions and powers continue to be fit for purpose, and that it is achieving its purpose.

## **Interaction with other Australian Government agencies, and states and territories**

83. As outlined above, one of the primary justifications for establishing a new entity is to address the complexity and fragmentation of the defence and veteran ecosystem. We do not make this recommendation with the intention of introducing another layer of administration or another agency that will work in a silo. Rather, the targeted purpose and functions, and the enabling powers and provisions, have been carefully considered to provide the new entity with the capacity to be a catalyst for reform across the defence and veteran ecosystem.
84. In order to do this, the new entity will need to communicate effectively and collaborate with other agencies to coordinate effort and work priorities. It will have to share information and advice on best-practice suicide prevention and early intervention approaches to reduce suicide risk.



85. As the states and territories are key players in the defence and veteran ecosystem, the new entity must engage with them in an advisory capacity. We expect it would share information and learnings to help support states and territories to drive changes within their service systems.
86. Where required, the ministerial council system can serve as one route for the new entity to channel advice. For example, the head of the new entity could provide advice to the Veterans' Ministerial Council (and its subordinate committee). This consists of the Ministers with responsibility for veterans' affairs from the Australian Government and each of the state and territory governments, and is chaired by the federal Minister for Veterans' Affairs.<sup>7</sup>

## **Advisory council**

87. We see benefit in the new entity establishing a non-statutory advisory council made up of individuals with a mix of skills, experience and expertise. This would include individuals who can demonstrate:

- lived experience of suicide and suicidality
- relevant subject matter expertise, including in the areas of suicide prevention, veteran health and wellbeing, policy development and data analysis
- experience serving in the ADF.

The advisory council should also reflect the diversity of the contemporary serving and ex-serving ADF community.

88. Council members may be nominees of specific organisations or may be appointed in an individual capacity. Each council member would hold their appointment at the discretion of the head of the entity.
89. The role and functions of the advisory council should be determined by the new entity, but we would expect they would include providing:
- advice on priorities for future reviews or investigations
  - feedback and advice on materials prepared, including draft reports
  - input into communications and stakeholder engagement strategies.



## 30.5 Considerations that have shaped our thinking

### 30.5.1 The role of existing agencies

90. We considered whether recommending reform of an existing agency (or agencies) would be preferable to establishing a new entity. We did this for four reasons.
- There are practicalities. Establishing a new entity imposes an ongoing fiscal cost on the Australian Government. It requires staff and facilities, and takes time and legislative resources to establish and maintain.
  - We are aware that Australian Government policy is not to create new statutory bodies, where possible.<sup>8</sup> We recognise that not all issues, however serious, require establishing a standalone agency.
  - The Royal Commission heard evidence that, in some cases, organisational reform may be more effective at changing behaviour and improving accountability. We heard, for example, setting clear objectives and identifying key measures can be an effective way of achieving organisational priorities.<sup>9</sup> We also heard of the risks that independent oversight can entail when it is not well designed or properly embedded, including that it can affect whether management performs their assigned responsibilities.<sup>10</sup>
  - We recognise that Defence, DVA and other agencies must retain responsibility for addressing the risk factors for suicide and suicidality that arise within their remits.
91. Therefore, we undertook an in-depth analysis of existing agencies' roles and functions, alongside recently proposed reforms. This analysis informed our rationale for proposing the new entity and the development of the model outlined above.

### Analysis of existing agencies

92. We identified existing agencies that have an advisory or oversight role relevant to the wellbeing of serving and ex-serving ADF members. This includes those in the defence and veteran ecosystem, and those involved in mental health promotion and suicide prevention more generally.
93. Each agency was examined to determine its alignment with structural priorities, including clarity of purpose, standing oversight, independence and capability. We considered a number of characteristics, such as:
- existing roles, remits and functions, and how these could support or conflict with the objectives of a new entity
  - independence, including in legislation, organisational structures and culture
  - statutory powers
  - workforce and resourcing



- general capability, including around suicide and mental health, and defence and veteran literacy
- issues that have been raised throughout our inquiry, including broader cultural issues, demonstrated ability to carry out prior commitments, and perceptions among the serving and ex-serving ADF community.

## Summary of our analysis

94. We found existing agencies fall into the following categories:

- agencies that are subject to our recommendations, so they cannot perform an independent oversight role regarding their own implementation of recommendations (for example, defence agencies and DVA)
- agencies that have a very specific remit or focus that would not be consistent with what this Royal Commission considers is needed to 'shift the dial' on suicide prevention (for example, the Inspector-General of the Australian Defence Force)
- agencies whose current role would be fundamentally distorted or changed by simply adding functions, such that it would not be beneficial for serving and ex-serving ADF members or key stakeholders (for example, the Commonwealth Ombudsman)
- agencies that do not have adequate authority to fulfil the necessary functions of the new entity, either by virtue of how they are currently established, or due to their relationships with Defence, DVA and other actors within the defence and veteran ecosystem (for example, the National Mental Health Commission).

95. Our detailed analysis is set out below. In summary, we found existing agencies are not well suited to fulfil the purpose and objectives proposed for the new entity for four reasons:

- Australian Government agencies such as Defence and DVA lack independence and have demonstrated a need to improve accountability of some of their functions.
- Some agencies (such as Defence and DVA) have structural or cultural issues that call into question their ability to reform at the scale required. As explored in this final report, these issues include a sustained lack of capacity to carry out important internal reform, a prioritisation of organisational objectives other than suicide prevention, and previous unwillingness to hold other agencies within the defence and veteran ecosystem to account.
- No existing agency has the remit, resources and powers to assume the functions we foresee for the new entity. Nor is there an agency with a combination of mental health expertise, familiarity with the defence and veteran ecosystem, and capacity and powers to handle investigations. While an existing agency could be reformed, the scale of change required and the time and cost involved would



be considerable. It would risk failing to achieve the desired outcomes if the other limitations concerning independence, accountability and structural or cultural issues are not addressed.

- Relying on a combination of existing agencies to achieve desired suicide prevention outcomes would be neither practical nor cost-effective. There would be problems coordinating and collaborating across disparate portfolio areas, and existing gaps would remain.

## **How this analysis informed our proposal**

96. Our understanding of the roles and functions of existing agencies and recently proposed reforms has informed the model we have proposed for the new entity, outlined above. It is based on the following principles:

- Transformational change is required given the unacceptably high rates of suicide, and the evidence we heard of suicide risk factors not being appropriately managed.
- The new entity should not seek to replace the responsibilities of existing agencies. Rather, its role should be to ensure that cultural change occurs, and that suicide prevention is embedded as a core business function.
- The new entity should not duplicate specific functions of existing agencies.
- The new entity should work with, and leverage the expertise of, existing agencies where possible.

## **Overview of existing agencies and their limitations**

### **Defence**

97. The Department of Defence's portfolio outcomes are largely operational, including to 'defend Australia and its national interests' and 'protect and advance Australia's strategic interests'.<sup>11</sup> While we have heard agreement from Defence about the shared responsibility for addressing the problem of suicide among serving and ex-serving ADF members, institutional reform will take time and will require dedicated oversight.

98. A key benefit of the new entity is its ability to provide independent, arm's-length oversight of the defence and veteran ecosystem as it relates to suicide prevention. We do not believe this independence could be achieved or sustained if the role of the new entity was held by Defence itself. As the work of this Royal Commission has identified, Defence has not demonstrated that it can be self-critical, forthright and proactive on the issue of suicide prevention.

99. There are also questions around Defence's capacity to initiate, undertake and follow through on difficult and long-term reform. The evidence before this Royal Commission reinforced the findings of previous reviews and inquiries that longstanding and



unresolved cultural, governance and accountability issues have prevented Defence from implementing and embedding positive change on the scale required to address high rates of suicide among serving and ex-serving ADF members.

100. Further, Defence's ability to have oversight of the issues affecting ex-serving ADF members would be contingent on its effective cooperation with DVA. This too, is an area that our inquiry and previous reports have raised as a concern, given the history of fragmented coordination between both agencies.
101. As discussed further below, stakeholders have identified similar concerns and have strongly emphasised the need for independent oversight of Defence, particularly in order to promote transparency and long-term accountability for the prevention of suicide and suicidality among serving and ex-serving ADF members.
102. The relationship between the new entity and Defence should be beneficial and complementary. A new entity could use its expertise to help Defence take an effective and evidence-based approach to the prevention of suicide and suicidality. It could provide independent oversight of Defence's actions and performance in this area. In doing so, it could help build community confidence in Defence.

## **Department of Veterans' Affairs**

103. DVA states that its purpose is to 'support the wellbeing of those who serve or have served in the defence of our nation, and families'.<sup>12</sup> Its functions centre around delivering a range of discrete payments and entitlements, and providing other support services, largely to ex-serving members and their families. Administering the veterans' entitlements system is a purpose that is distinct from, and may conflict with, the purpose that we propose for the new entity.
104. As with Defence, we do not believe the requisite independence could be achieved if the functions of the new entity were to sit within DVA. As this final report and our interim report have identified, DVA has not always acted in the best interests of veterans.
105. We also note the concerns around DVA's strategic policy capability that have been raised in previous reviews.<sup>13</sup> Again, this calls into question its ability to oversee systemic, widescale reform across the wider defence and veteran ecosystem.
106. Further, DVA's remit is largely focused on supporting ex-serving ADF members and their families. It lacks the powers and internal capacity to address the systemic issues that impact serving members.
107. During our consultation on the establishment of a new entity, numerous stakeholders expressed negative views concerning DVA. This included strong doubts about its capacity to reform without independent external oversight.<sup>14</sup> The new entity could support this reform process.



## Inspector-General of the Australian Defence Force

108. The principal functions of the Inspector-General of the Australian Defence Force (Inspector-General) are outlined in the *Defence Act 1903* (Cth).<sup>15</sup> These include, but are not limited, to:
- inquiring into or investigating matters concerning the military justice system or ADF
  - conducting performance reviews of that system
  - inquiring into the deaths of ADF members (including by suicide)
  - overseeing the statutory Redress of Grievance system in the ADF.<sup>16</sup>
109. Oversight of the military justice system is important in the context of suicide prevention. However, the Inspector-General's narrow and defined scope is very different from the proposed role for the new entity. It does not have the remit, staff, powers or resourcing to undertake a broader oversight role, and could not do so in its current form.
110. This final report has raised a number of issues concerning the discharge of the Inspector-General's functions. Reform of the Inspector-General role should focus on its existing functions to strengthen the military justice system. Also, we do not propose the new entity would play a role in investigating individual deaths, which is a primary function of the Inspector-General.

## Commonwealth Ombudsman and the Defence Force Ombudsman

111. The Commonwealth Ombudsman helps resolve complaints in relation to Australian Government agencies and some private agencies. The Commonwealth Ombudsman also oversees the Commonwealth Public Interest Disclosure scheme and monitors certain covert and intrusive powers by police and other law enforcement agencies.
112. The Commonwealth Ombudsman has a very broad remit (of 190 Commonwealth agencies), for which it must support complaints handling and resolution.<sup>17</sup> It is responsive to complaints and provides reports with reasoned opinions and may make recommendations – for example, where it finds that an agency has undertaken administrative action that is wrong, unjust, unlawful, discriminatory or unfair.<sup>18</sup>
113. The Defence Force Ombudsman (DFO) sits within the Commonwealth Ombudsman and offers an independent complaints-handling mechanism for serving and ex-serving ADF members. Its focus is on resolving individual complaints regarding administrative matters that Defence or Defence agencies have not resolved. It also receives reports of serious abuse within Defence.<sup>19</sup>
114. The focus of the Commonwealth Ombudsman and the DFO are distinct from what we propose for the new entity, which would undertake proactive monitoring and provide strategic policy advice. Significant changes, including legislative change, would be required to embed these functions within either of these two bodies, and there is little precedent for doing so.



115. There are also issues with capability. As outlined earlier in this final report, we have set out our concerns around the effectiveness of external oversight bodies, including oversight provided by the Commonwealth Ombudsman and the DFO. These concerns relate to culture, resourcing and capacity to drive change within Defence and DVA. Addressing these issues will require significant reform.
116. The DFO's core complaints handling functions will remain important. As the new entity will not receive complaints, the Commonwealth Ombudsman and the DFO could complement its oversight role. They could also support the new entity through the provision of data and evidence.

## Overview of recently proposed reforms and their limitations

### National Mental Health Commission and National Suicide Prevention Office

117. The National Mental Health Commission (NMHC) monitors and reports on government investment in mental health and suicide prevention initiatives. It also provides evidence-based policy advice to government, and disseminates information on ways to continuously improve Australia's mental health and suicide prevention systems.<sup>20</sup>
118. The National Suicide Prevention Office (NSPO) was established under the NMHC, in response to recommendations in the National Suicide Prevention Adviser's Final Advice and the Productivity Commission's inquiry into mental health and suicide prevention.<sup>21</sup> It aims to build 'whole-of-government capability to deliver a national approach to reducing suicide rates in Australia'.<sup>22</sup>
119. As part of the 2024–25 Budget, the Australian Government announced a process of reform to strengthen both agencies, including a plan to transition them into the Department of Health and Aged Care as a single, non-statutory office from 1 October 2024.<sup>23</sup>
120. We do not believe that either agency individually, or the two collectively, could fulfil the purpose and objectives proposed for the new entity.
121. The two agencies lack the authority, resourcing and capacity to effectively monitor implementation of our recommendations, or to promote systems-level reform. Nor could they be readily adapted to do so.
122. Neither agency is resourced or authorised to oversee activity within Defence agencies or to monitor changes in policy, practices or culture. They do not have the powers or expertise to compel the provision of information or manage protected information from Defence agencies, and their functions could not be readily adapted to enable this. While the NMHC provides an annual report to the Australian Government, it is not empowered to report directly to Parliament. As such, its ability to compel change within agencies that have suicide prevention responsibilities may be limited.



123. Further, neither agency has defence expertise, or a deep understanding of the overarching drivers and risk factors for suicide that are specific to military personnel and differ from the civilian population.
124. However, the new entity could collaborate closely with the reformed non-statutory office, such as advising on evidence-based approaches to suicide prevention.

## **Parliamentary Joint Committee on Defence**

125. In May 2024, the Defence Amendment (Parliamentary Joint Committee on Defence) Bill 2024 (Cth) was introduced to establish a Parliamentary Joint Committee on Defence (Committee).
126. This was in response to findings of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which inquired into how Australia makes decisions to send service personnel into international armed conflict. It concluded that existing parliamentary oversight and accountability mechanisms for Defence were inadequate in balancing accountability and transparency against national security considerations. It recommended establishing a new joint statutory committee with the power to request and receive classified information and briefings, which would enable it to more effectively scrutinise Defence and its portfolio agencies.<sup>24</sup>
127. The committee's proposed functions are wide ranging and include:
- reviewing the administration and expenditure of Australian defence agencies
  - scrutinising Australia's defence capability development and acquisitions
  - examining war or warlike operations
  - monitoring the involvement of Australian defence agencies in significant non-conflict operations.<sup>25</sup>
128. Some of its other functions are relevant to this Royal Commission, including:
- considering matters relating to defence personnel and veterans' affairs
  - monitoring and reviewing the implementation of the Australian Government's response to the findings of any royal commission that inquires into a matter relating to the defence of Australia, the Department of Defence, ADF or another Australian defence agency
  - inquiring into other matters relating to one or more Australian defence agencies on the committee's own initiative.<sup>26</sup>
129. We welcome initiatives that support the implementation of our recommendations and enable greater scrutiny of Defence, particularly decisions that affect serving and ex-serving ADF members.



130. However, it is clear that this committee will not have the remit, resources or powers to assume the oversight functions we foresee for the new entity. Suicide prevention is not specifically named as a focus area of its work. Further, as a parliamentary committee, it will not be sufficiently resourced or administratively capable of undertaking monitoring, review, investigation and reporting on suicide prevention, and providing advice to support wellbeing objectives across the defence and veteran ecosystem.

### 30.5.2 Precedent for establishing a new entity

131. We examined where previous royal commissions had recommended establishing standalone entities to address systemic problems identified by their inquiries, and to monitor the implementation of their recommendations. There is considerable recent precedent for this.
132. These bodies were recommended in different contexts, which is reflected in their varied functions and the means by which they were enacted. This analysis was instructive, and informed aspects of our proposed model for the new entity.

#### Aged care

133. In 2021, the Royal Commission into Aged Care Quality and Safety recommended that the Australian Government establish an independent office of the Inspector-General of Aged Care (recommendation 12). It was to 'investigate, monitor and report on the administration and governance of the aged care system'.<sup>27</sup> It recommended this be housed separately from the System Governor, who is the Secretary of the Department of Health and Aged Care, with a separate appropriation and its own staffing.<sup>28</sup>
134. The Inspector-General of Aged Care and the Office of the Inspector-General of Aged Care were established following passage of the Inspector-General of Aged Care Act in October 2023. Its roles include reviewing and reporting on the aged care system, identifying systemic and significant problems, and recommending changes to increase accountability and transparency through reporting its findings to Parliament. This included on the implementation of the Aged Care Royal Commission's recommendations.<sup>29</sup>
135. Its functions include reviewing aspects of the aged care system; overseeing complaints management processes; monitoring decisions, programs, operations and funding; and producing reports. It does not receive individual complaints.<sup>30</sup>
136. Legislation requires the Inspector-General of Aged Care to conduct two reviews, at fixed periods, to evaluate the Australian Government's implementation of the Aged Care Royal Commission's recommendations.<sup>31</sup> The legislation also gives the Inspector-General of Aged Care wide information-gathering powers, including to obtain information, retain documents and access premises.<sup>32</sup> Individuals providing information are subject to protection in some circumstances.<sup>33</sup>



## Financial services regulation

137. In 2019, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry recommended a new oversight authority for Australia's primary financial services regulators, the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission (recommendation 6.14).<sup>34</sup> It recommended it be independent of the Australian Government and established in legislation.<sup>35</sup>
138. The Financial Regulator Assessment Authority was established as an independent statutory body following passage of the *Financial Regulator Assessment Authority Act 2021* (Cth).
139. Its aim is to complement and enhance existing external accountability mechanisms.<sup>36</sup> Legislation requires the authority to report on the effectiveness and capability of the two regulators every two years, and reports must be tabled in Parliament. The authority can also prepare ad hoc reports at the request of the Minister.<sup>37</sup>

## Other royal commissions

140. In 2023, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability recommended the establishment of a new National Disability Commission (recommendation 5.5), an independent statutory body that would report on outcomes for people with disability.<sup>38</sup> This remains under Australian Government consideration.
141. Additionally, numerous state-level royal commissions have resulted in entities set up to monitor and report on their recommendations. They include Victoria's 2009 Bushfires Royal Commission, its Family Violence Royal Commission and its Mental Health Royal Commission, which concluded in 2010, 2016 and 2021, respectively.<sup>39</sup>

## 30.5.3 Stakeholder support for a new entity

142. Our recommendation to establish a new entity and the proposed model have been guided by the support and views expressed by stakeholders, including through a dedicated external consultation process. Through this process, many stakeholders emphasised the need for a new entity, and shared their perspectives on its purpose and design.

## Consultation process

### Consultation paper and response

143. On 15 November 2023, we released a consultation paper that proposed a new oversight body, and set out some of our early thinking on the topic. It contained a series of consultation questions.<sup>40</sup>



144. We received 252 submissions in response to the consultation paper: 67 submissions from organisations and 185 from individuals. Of the submissions from organisations, around half were from veterans' organisations, including ESOs and other support organisations or peer groups. Of the submissions from individuals, nearly half were from ex-serving ADF members, with the remainder mostly from serving ADF members and family members.
145. We also held a series of stakeholder workshops and interviews in late 2023. The workshops involved 39 participants, while a further seven people were interviewed. They comprised representatives from veterans' organisations and peer groups, government agencies at the federal and state and territory levels, ex-serving ADF members, family members, academics, and representatives from health and mental health organisations.
146. The combined data received through submissions, workshops and interviews were coded and analysed by an independent consultant.

## **Other forums for consultation**

147. Our recommendation to establish a new entity was also informed by consultation with our reference groups. Our Stakeholder Reference Group had representatives from ESOs and other groups with an interest in the mental health and wellbeing of serving and ex-serving ADF members. Our Defence and Veteran Suicide Prevention Reference Group consisted of serving and ex-serving members of the Navy, Army and Air Force, and mental health researchers and practitioners.
148. These groups helped facilitate regular communication with our key stakeholders, and supported our understanding of the defence and veteran ecosystem and the role to be played by the new entity.

## **Stakeholder views on a new entity**

149. The response we received from serving and ex-serving ADF members, their families and the broader community, was strongly in favour of establishing a new entity.
150. Representatives of five significant ESOs strongly and unanimously supported the establishment of such a body when they gave evidence at Hearing Block 12, in Sydney in March 2024.<sup>41</sup>
151. Of the written responses we received from organisations during our consultation process, 86% agreed that a new entity should be established. We note that nearly half the organisations who provided responses were veterans' organisations or peer groups, representing many of Australia's more than 580,000 serving and ex-serving ADF members (as at 2021).<sup>42</sup>



152. Many participants in the consultation process stated the status quo was not working, and a new entity was needed to meaningfully address suicide and suicidality among serving and ex-serving ADF members. They told us systemic change was needed, which would require an ongoing accountability mechanism.<sup>43</sup> A new entity was seen as a 'necessary step' to target these 'complex and pervasive issues', and its establishment would 'align to the gravity of the problem'.<sup>44</sup>
153. While there was strong support for the establishment of a new independent entity with oversight responsibility, there were some divergent views in relation to its functions and powers. For example, some stakeholders felt the new entity must have powers to refer individuals for prosecution. It must also have coercive powers to enforce repercussions for non-compliance. Others argued a punitive approach should be avoided as it may have unintended consequences that work against facilitating positive cultural change. There were also divergent views over whether the new entity should receive and deal with individual complaints.
154. We carefully considered all stakeholder feedback. In forming our view on the scope, functions and powers of the new entity, we have sought to balance differing stakeholder positions against the evidence we received during our inquiry about the limitations of existing mechanisms. As our main areas of concern primarily relate to shortfalls within existing oversight, it is this issue that our proposed model is designed to address.

## 30.6 Conclusion

155. This Royal Commission has highlighted the scale, contributing risk factors and overarching drivers of suicide and suicidality among serving and ex-serving ADF members. Our work has focused attention on the importance of learning from past failures, understanding why transformational change has not yet occurred and setting up the right systems to position for success.
156. We have provided numerous recommendations, all of which are necessary to reduce the persistently high rates of suicide and suicidality among this vulnerable cohort. Our final recommendation, to establish a new entity, underpins all the recommendations that precede it.
157. In making the recommendation to establish a new entity, we do not intend to relieve or absolve Defence, DVA and other relevant agencies of their obligations to address issues affecting the wellbeing of serving and ex-serving ADF members. Rather, the statutory agency we propose would assist them in discharging their responsibilities more effectively.
158. A new entity can support governments, Defence, DVA and the wider defence and veteran ecosystem to prioritise and build on the positive work that started during this Royal Commission.



159. A statutory agency with internal expertise on the multiple drivers behind suicide and suicidality, and the experience of service and post-service life, will be able to provide evidence-based advice on data and trends. Its singular focus will enable more effective consideration of the multitude of factors and influences that contribute to suicide and suicidality among serving and ex-serving ADF members, where responsibility is currently fragmented and uncoordinated across multiple agencies.
160. By monitoring the defence and veteran ecosystem through the lens of suicide prevention, it can promote long-term change and drive system reform.
161. The establishment of a new independent oversight entity will represent a step forward in regaining community trust that has been lost, and focus attention on a cohort whose service to this country has been great, but whose interests have often gone unrepresented.
162. As Commissioners, we emphasise that reducing the rates of suicide and suicidality among serving and ex-serving ADF members is both necessary and possible.
163. Establishing a new entity would send a clear signal that the Australian Government recognises the gravity of this crisis. It would demonstrate that the lives of those who serve this country are valued. And it would confirm that Australia is committed to protecting the lives of those who protect us.

**Recommendation 122: Establish a new statutory entity to oversee system reform across the whole Defence ecosystem**

The Australian Government should establish a new statutory entity with the purpose of providing independent oversight and evidence-based advice in order to drive system reform to improve suicide prevention and wellbeing outcomes for serving and ex-serving Australian Defence Force members.



## Endnotes

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