



## **Royal Commission Update - Canberra Day 29 - 11 April 2022**

### **Commissioners Announcement**

- Attorney General has approved an extra 12 months for the Royal Commission to present its Final Report - it is now due 17 June 2024. The Interim Report will still be due 11 August 2022.
- By extending the length of the inquiry, the Commission hopes to:
  - Allow adequate engagement with Defence and Veteran communities
  - Pursue data gathering to inform recommendations
  - Conduct further roundtables with experts
  - Socialise and test solutions with stakeholders
  - Examine the work done on the issue by Australia's allies
  - Safeguard the safety of the Commonwealth workforce
- The Interim Report will focus on urgent issues that can be addressed immediately
- Further urgent recommendations may be made before the publication of the Final Report
- The Commissioners will also consider whether a body should be created to follow and implement the work of the Commission, similar to the previous office of Interim Commissioners for Defence and Veterans Suicide
- There have been 1300 submissions and 344 requests for private hearings

### **RSL References**

#### Positive:

NA

#### Negative:

NA

### **General Summary**

- Comcare presentation on Work, Health and Safety frameworks in Defence
- Defence presentation re. the Defence Suicide Framework
- Panel questions on information sharing and subsequent presentation from Information Commissioner

### **9:00am - 11:00am - Sue Weston PSM - Chief Executive Officer, Comcare**

- Commonwealth regulator under their version of the Workplace Health and Safety (WHS) Act, Regulations and code, and this role with the ADF

- DVA looks after compensation for current and former ADF personnel
- Scheme management group looks after data and arrangement under the WHS framework
- Framework - primary duty of care on persons who conduct a business or undertaking (PCBU) - PCBU for ADF is the Commonwealth, including heads of organisations and officers within those organisations
  - Health includes physical and mental health - PCBUs need to identify hazards in a workplace, including for psychosocial hazards and then identify and address these risks
  - Sect. 19 of the WHS Act is to ensure a physically and psychologically healthy workplace
  - Notifiable incidents - PCBUs have duty to report incidents involving 'harassment or bullying', 'death, serious or dangerous injury' need to be reported to Comcare
  - Definitions are very prescriptive - injury needs to be inpatient at hospital-level - duty on PCBU to determine whether incident arose out of undertaking conduct of business
  - Sexual assault, psychological and physical injury outside scope unless there is death or serious inpatient injury within 48 hours - i.e. no legal obligation to report psychological injury reported more than 48 hours after an incident
  - Presents difficulty in Comcare receiving information about psychosocial incidents
  - WHS concerns, intelligence, complaints, helpdesk, and media responses can be used to identify potential issues with PCBUs not meeting their obligations
- Inspection - can be proactive or reactive - more serious compliance action can occur, including investigation which can move to prosecution
- Consultative function - Comcare has a role in providing information to clients
- Regional Engagement Plans - relates to each state - looks at what's happening in each jurisdiction
- Mental Stress - serious incidents - 33 of the incidents attributed to suicide or attempted suicide - Comcare believes early intervention and prevention are critical, so need better rules re. notification - 13 were from the ADF
- If there were obligation to report psychosocial injury, Comcare would be in better position to understand the psychosocial injury risk in a workplace - what is reportable is being examined by SafeWork Australia - but should be getting a lot more, especially of serious incidents
- Psychological injury is neglected in WHS Regulations and Codes - need psychological injury trigger in Codes and Regulations - this is being reviewed
- Psychosocial injury - focuses on harassment and bullying - this means that it can focus on individual incidents, rather than the broader WHS culture of an organisation
- Comcare wants to better address reports of psychological injury and psychosocial risks - have established a Psychosocial Risk Regulation Team - want to check on PCBUs in this area - additional resources may be needed - doing forward proactive work - will build better data on psychosocial risk - will help to address the issue
- Looking at new prevention and early intervention strategies - early intervention particularly important in cases of physical injury, with physical injury having effects on mental health - early intervention pilot program re. multi-service model (GP, psychologist, physiotherapist) - improved outcomes for psychological injuries - 10-30% less likely to develop chronic condition
- Better to get workplaces working on the injuries early, before they get to compensation stage

### Defence and Comcare

- Communications between Defence and Comcare - twice-a-year liaison between the two - multiple other forums at operational level - describe strategies for Defence to evaluate its WHS programs, and then for Defence to incorporate them
- Looking at better notification obligations re. psychosocial risk - i.e. notification if someone receives medical attention on base
- Challenges in Defence:
  - Gap when incident may be outside strict workplace, but may be linked to job - need better practice in this area

- Increase in DVA processing times and release of Brereton reports findings - marked increase in psychosocial notifications to Comcare from Defence - increasing calls to Open Arms
- Need discussions re. work-related link if an incident occurs during leave, particularly stress, medical or rehabilitation leave - PCBU does have duty to notify here
- No serious sexual assaults have been notified to Comcare
- ADF Centre for Mental Health, HeadStrength and WATCH app - three separate Defence project to address psychosocial WHS risks - interaction also between WHS strategy and programs to support wellbeing
- Comcare and ADF suicides - Australian Institute of Health and Welfare (AIHW) figures discrepancy with AIHW figures significantly higher - many incidents not reported to Comcare as non-work related
- Alcohol - Defence program - Comcare and SafeWork have some information on this topic - can provide tailored programs
- What could the ADF do to better improve psychosocial WHS risk?
  - Implement 34 recommendations of the Boland report
  - Implement better incident notifications
  - Implement a Code of Conduct

**2:45am - 4:15pm - Information Sharing Panel - Dr Tom Clarke (First Assistant Secretary, Enterprise Transformation and Governance, Dept. of Defence) - Monique Hamilton (First Assistant Secretary, Service Delivery, Dept. of Defence) - AIRCDRE Steve Martin AM (Director, Special Projects, Dept. of Defence) - Rachel Goddard (First Assistant Secretary, Commemoration and Transformation Division, Dept. of Veterans' Affairs) - Moira Campbell (Assistant Secretary, Client Access and Rehabilitation Branch, Dept. of Veterans' Affairs)**

#### Information sharing between Defence and DVA

- Info sharing agreement in 2013 Memorandum of Understanding between Defence and DVA - single point of approach between the two through the Single Access Mechanism (SAM) - usually general demographic information, medical history, service history, incidents, claims lodgement notification
- SAM arrangement use 5 different applications or tools to make it happen - DVA systems are not integrated - new systems being introduced to improve those systems
- Moving towards self-service, so that DVA doesn't have to make a formal request for information - 27% of records required by DVA for self-service has been digitised - 40% end of year, 100% in five years
- Some categories of documents are provided automatically
- DVA can categorise the priority level of claims - timeframes are not always met, as it depends on the nature of the question - if an immediate response is required, there are provisions to make this happen
- Information sharing improvements should improve claims processing times
- Medical information is not automatically sent to DVA following the medical discharge of a member - this has to be requested

#### Defence information sharing with families

- When releasing records to veterans or family members, Privacy Act occurs for third part members, meaning redactions, and also operationally-sensitivity material
- Request for dead Member's records - need to prove their own ID and proof of relationship - spouse, parent, child - once approved, released on USB
- Is guidance about this process provided to family members? There are contact numbers available for the Royal Commission, with a human being on the other end to provide guidance - there is info on the Defence website also - possible redactions are also explained for Freedom of Information requests
- If a member is alive, it requires their consent to share records

## DVA information sharing with members

- Single point of contact within DVA for info requests - including financial and non-financial requests
- Need consent from either veteran, legal guardian or executor of a will - but sometimes family dynamics means this isn't possible - sometimes don't have legal right to give info
- If member wants to give access to spouse, they can list their name in advance with DVA to ensure they can have access if required after their death
- Often encourage applicants to apply under Freedom of Information (FOI) if they think the volume of redactions would be high - provides greater transparency to the applicant
- No standalone policy for administrative access to records - follow Information Commissioner guidelines and have now built an Information Access Unit to create reports and procedures by the end of the year
- Try to resolve requests beneficially

**11:45pm - 2:45pm - David Morton (Director-General, Health Policy Programs and Assurance, Dept. of Defence) - Captain Glenn Kerr (Provost Marshal, Joint Military Police Unit, Dept. of Defence) - Brigadier Eamon Lenaghan CSC (Deputy Head of Task Force supporting the Royal Commission into Defence and Veteran Suicide)**

## Defence Suicide Register

- 1970 was the first record of suicide
- Surveillance document for the number of suicides for people serving in the Australian Defence Force full-time
- Australian Institute for Suicide Research and Prevention (AISRAP) Recommendation 9 in 2012
- Ideation, planning and attempts
- No database for Defence tracking suicidal behaviour
- Work on suicidal behaviour commenced in 2016
- Current suicide data collection in the Australian Defence Force should be systematic and well-coordinated
- Families of persons dying by suicide are not interviewed or included in the database
- Satisfied that several the fields are covered but have indicated it continues to be a moving area that benefits from gathering data from complicated systems
- international experts identified various possible risk factors for military
- Database has been fully implemented - no one incident caused the Register to be created - additional work has been done on suicidal behaviour, ideation, attempts etc. May not have all triggers covered within Database but have lots of data re. Service available
- Systematic and well-coordinated as far as possible in Defence to this point
- Speaking with families - not being done at Joint Health Command and not for Defence Suicide Database - no systemic way its done by Defence
- Every death within Defence will be subject to an investigation - every death by suicide will be investigated and referred to Inspector General ADF - information also sought from the Joint Military Police Unit and various Service Arms - but there is no once central point of collecting information i.e. Defence does not have a consolidated document or a review of a death by suicide containing all of the information surrounding the event
- Could share and identify risk and protective factors through the Database
- All serving members are included, regardless of service category and Veterans - who served one day post-January 1, 1985, for suicide after 1985
- ADF makes all information available to reservists that is available to ADF Members - Monitoring - missing some information for some reservist types - not all information is available
  - ADF doesn't have all info depending how far they are from full-time Defence service

- Defence to work with stakeholders on looking at those presenting with suicidal behaviours, learn about suicidal factors
- Is difficult to cover ex-serving members - ESOs and Unit Associations sometimes contact Defence to let them know - no one is looking into this systematically - approached other organisations to help with the design of new system to gather this data
- Invited partners to participate in research regarding suicide in the ADF

#### **4:00pm - 5pm - Commissioner Angelene Falk (Australian Information Commissioner and Privacy Commissioner)**

- Key functions include the Information functions, Freedom of Information functions (FOI), Privacy function
- Information life cycle includes collection, storage, access and destruction - provide strategies and options to agencies for better practice
- Best practice information sharing - disclosure occurs when government discloses information for primary purpose - can occur when consent is obtained from concerned individual or permitted general situations, where information needs to be disclosed to prevent harm arising - this would include suicide, although this is context specific - need policies and procedures in place
- Australian Privacy Principles (APP) 12 allows individuals to access information relating to themselves - need policies and procedures for identification, timeframes, and processes for application
- FOI requests are not limited to personal information
- In Privacy Act, personal privacy exemption if an FOI request is made for a document that contains information about a third-party
- Some circumstances where under FOI information cannot be shared about a deceased person
- Clear written policies are best practice
- Under FOI Act, there is an obligation to have information sharing and processes and procedures in place - and agencies can be investigated if these are not in place
- Monitor compliance through complaints, audits, or assessments