

# ROYAL COMMISSION INTO DEFENCE AND VETERAN SUICIDE - STAKEHOLDER REFERENCE GROUP

## POTENTIAL IMPLEMENTATION BODY



1. In response to the Royal Commissioners calls for feedback on the potential creation of:

*An entity with comprehensive oversight, responsibilities, and powers to drive lasting reform to contribute to a reduction in the incidence of suicide and suicidality in serving and ex-serving ADF members<sup>1</sup>*

2. The RSL proposes an implementation body that combines the roles of the previous Interim National Commissioner for Defence and Suicide Prevention, with a body which could work with the Auditor General's Office and Commonwealth Ombudsman to investigate and report on the implementation of recommendations of the Royal Commission.

## National Commissioner Role

3. RSL Australia suggests that the recommendations of the reports of the Royal Commission into Defence and Veteran Suicide are implemented by a body specifically established for that purpose.
4. The RSL believes this body should be independent and established by an Act of Parliament.
5. The RSL suggests this role could be fulfilled by a reinstated, renamed, and permanent National Commissioner for Defence and Veteran Suicide Prevention, under similar provisions to those of the *National Commissioner for Defence and Veteran Suicide Prevention Bill (2020)*.
6. Because of the broad ranging scope of this position, which would reach beyond the issue of suicide by Defence and former Defence personnel, the RSL proposes that the position be renamed to the National Commissioner for Defence and Veteran Wellbeing. An explanation for this is provided at paragraphs 37-40 of this document.
7. RSL Australia suggests that this statutory officer have a dual mandate:

- The power to oversee the implementation of the recommendations of the Royal Commission into Defence and Veteran Suicide; and
- To continue to monitor, investigate and make findings in relation to Defence and veteran suicide and attempted suicide on an ongoing basis, as per the original concept of a National Commissioner for Defence and Suicide Prevention.

8. Further details of these roles are provided below, while an outline of the proposed structure of the Machinery of Government is available at **Figure 1**.
9. As a statutory office holder, the National Commissioner will be able to exercise their role with a large degree of independence from the Government, while being able to legally enforce decisions made through associated 'enforcement' bodies - i.e. the Australian National Audit Office (ANAO).
10. By enshrining the role in legislation, the activities of the National Commissioner will be ongoing, and the mandate and functions assigned to the National Commissioner will be clear and transparent.

## Oversight of implementation of Royal Commission recommendations

11. Under this model, the first function of the National Commissioner for Defence and Veteran Wellbeing would have responsibility for monitoring and reporting progress towards implementation of the recommendations of the Royal Commission.
12. As part of this role, the powers and responsibilities of the National Commissioner would include:
  - Establishing a National Office for Defence and Veteran Wellbeing
  - Establishing a Cross-Organisational Working Group composed of (but not limited to) representatives from Defence, DVA, Coroners' Offices, State Governments, the

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<sup>1</sup> Royal Commission Interim Report Pg 147

health system, and an ESO representative

- Monitoring, obtaining, and reporting on relevant performance data (where performance issues have been identified by the Royal Commission) from Coroners' Offices, Defence, DVA and ESOs
- Working with 'enforcement bodies' (the Australian National Audit Office and the Commonwealth Ombudsman) to audit progress towards meeting the recommendations of the Royal Commission into Defence and Veteran Suicide
- The statutory power to commission the Auditor General to request audits by the ANAO within the terms of the Royal Commission findings
- The statutory power to refer complaints received by the Commissioner relating to the actions and decisions of relevant Federal Government Agencies to the Commonwealth Ombudsman for investigation
- Making suggestions (where necessary) regarding the implementation of recommendations
- The power to make recommendations to Federal Government Departments, such as Defence and DVA and directly to Ministers, regarding the findings of the ANAO and the Commonwealth Ombudsman
- Continuing to monitor the findings of the 'enforcement bodies,' and report directly to Parliament annually on the implementation of recommendations

13. RSL Australia suggests the Auditor General could be required to report the progress of implementation to the Prime Minister five years after the Commissioner roles is established and work is commenced.

14. RSL Australia recommends the report by the National Commissioner for Defence and Veteran Wellbeing progress in implementing the recommendations of the Royal Commission is considered when assessing the performance of stakeholder Departments, particularly DVA and Defence, in annual reporting.

15. RSL Australia also recommends progress in implementing the

recommendations of the Royal Commission is considered when assessing the performance of senior leadership of those Departments, including assessment against the Work Level Standards (WLS) of the Senior Executive Service (SES) of the Australian Public Service (APS).

## An ongoing role for the National Commissioner

16. RSL Australia recommends the Commissioner role be established as a permanent body. This would be embedded once the early primary role in relation to the implementation of the Royal Commission findings is underway.

17. As the implementation of the recommendations progresses, the role of National Commissioner for Defence and Suicide Prevention envisioned in draft legislation should be commenced.

18. This role would undertake (but not be limited to) the following:

- Inquiring into the circumstances of relevant defence and veteran deaths by suicide, including working with State Coroners and the Defence Force Ombudsman in the Commonwealth Ombudsman's Office
- As part of this inquiry power, the remit of the Defence Force Ombudsman should be expanded to encompass a complaint handling mechanism for Defence and Veteran wellbeing-related issues
- Working collaboratively with State and Territory Coroners to understand issues contributing to Defence and veteran deaths by suicide
- Maintaining a register of deaths by suicide among Defence Members and veterans
- Promoting understanding of suicide risks for Defence Members and veterans, and opportunities for improved wellbeing support
- Making findings and recommendations addressing Defence Member and veteran wellbeing and suicide prevention strategies, and any policy, administrative or structural reforms that may be required

- Strengthen collaboration between agencies and organisations across the service system, including ESOs
- Ongoing review of action taken in response to any findings or recommendations the Royal Commission makes, and recommending investigation and enforcement actions to the Auditor-General where necessary
- Helping to define the role of State Government Veterans' Affairs departments, including determining ways of collaborative working between State and Federal Governments
- Working with Defence and DVA on matters relating to transition and wellbeing, including active participation and consultation with the Transition Taskforce and facilitating collaboration with between the Joint Transition Authority and Defence community stakeholders

## National Office

19. The National Commissioner for Defence and Veteran Wellbeing would be supported by a National Office for Defence and Veteran Wellbeing.

20. The role of the National Office would include:

- Providing administrative support to the National Commissioner in the delivery of Royal Commission implementation-related outcomes
- Leading the development and implementation of the priorities recommended by the Royal Commission
- Management and administration
- Executive support
- Providing legal advice
- Ongoing liaison between the National Commissioner, Parliament, and other stakeholders
- Data collation and analysis
- Dealing with queries and issues as they arise

- Release of information to the public
- Public affairs, public education, marketing, and communications

## Cross-Organisational Working Group

21. The National Commissioner would also be supported by a Cross-Organisational Working Group.
22. The members of the Working Group would include, but not be limited to, representatives from Defence, DVA, Coroners' Offices, State Governments, the health system, and an ESO representative.
23. The Working Group should consist of part-time members from a diverse range of experiences, including civilians and veterans with experience in insurance, workers' compensation, public policy and legal fields.
24. The Working Group would fulfil a consultative function among interested parties involved in the implementation of the recommendations of the Royal Commission.
25. This would also address Recommendation 11.3 of the Productivity Commission's report, *A Better Way to Support Veterans*, which calls for a Ministerial Advisory Council to undertake a similar body of work.
26. As part of this function, the Working Group would:
  - Meet regularly to agree on priorities regarding the implementation of the Report's recommendations
  - Meet regularly with the Minister for Defence and Minister for Veterans' Affairs
  - Decide on the approach to be taken in relation to any investigation or request for an audit report
  - Setting timelines for achieving improvements and reporting to Government regarding any delays
  - Identifying recommended structural and procedural changes
  - Monitoring and reporting to Government and other bodies



on implementation progress

- Reporting to their own stakeholders or members on implementation progress
- Identifying blockers to the roll-out of recommended changes and making suggestions for solutions
- Providing advice on wellbeing in transition, and collaborating with JTA, DVA and community stakeholders on transition issues

27. The existence of this Working Group would not prevent the National Commission from meeting with stakeholders individually, particularly where progress may be lacking and require addressing

### Enforcement and Accountability Structure

28. The RSL believes the National Commissioner for Defence and Veteran Wellbeing should work with the Auditor General, the Australian National Audit Office and the Commonwealth Ombudsman for enforcement and accountability actions. This could include:

- The National Commissioner working in collaboration with the Auditor General on performance against the implementation of the recommendations of the Royal Commission
- The Auditor-General and ANAO be tasked with conducting performance audits of Departments of stakeholders that have recommendations for reform made to them by the Royal Commission
- The ANAO be required to report annually to Parliament against a range of established criteria
- The Auditor General be tasked with reviewing the process after a period of 5 years and providing a comprehensive report to the Prime Minister and/or Parliament
- The Commonwealth Ombudsman, acting in the role of Defence Force Ombudsman, be given expanded powers

under Part IIA of the *Ombudsman Act 1976* to investigate complaints related to Defence and/or Veteran suicide

29. The benefits of this structure are:

- The Auditor General reports directly to Parliament and is resourced and capable of performing this function
- The Auditor General is supported by the Australian National Audit Office (ANAO), which has an obligation to table reports to Parliament
- The ANAO has the authority to ask questions of Federal Government Departments, which would provide the investigative powers required by the National Commissioner to identify processing delays and issues in implementation of the Royal Commission recommendations
- The Auditor General and ANAO hold the expertise and resources to undertake the investigative and audit functions required by the National Commissioner
- The ANAO already has an ongoing role auditing Defence, through its annual Defence Major Projects Report
- The Commonwealth Ombudsman has the resources and knowledge to

30. This collaboration would require:

- Some expansion in resources for the Auditor General, ANAO, and Commonwealth Ombudsman could be considered to accommodate the increasing workload presented by auditing the implementation of Royal Commission recommendations
- Changing legislation related to the Commonwealth Ombudsman to allow an expanded role
- Ongoing commitment from all three organisations to engagement, to ensure priorities and activities are aligned, possibly through regular inter-departmental meeting.
- Special powers for this Federal Agency to compel support and evidence from State Governments.

## Funding, Resources and Staffing

31. The creation of the proposed body would require significant funding, resources, and staffing to be effective.
32. Significantly, it would also require commitment and goodwill from Government.
33. An outline of a proposed organisational staffing structure for the Executive level of the National Office for Defence and Veteran Wellbeing is at **Figure 2**.
34. In relation to investigations carried out by the ANAO and Commonwealth Ombudsman, the RSL recommends that the cost be borne by the Department which is being audited.
35. For example, if the National Commissioner asked the ANAO to audit the Department of Veterans' Affairs' (DVA's) performance against a particular recommendation of the Royal Commission into Defence and Veteran Suicide, DVA would be liable for the costs of the ANAO's investigation.
36. The estimated cost of the Interim National Commissioner for Defence and Veteran Suicide Prevention was \$42.7 million in 2020<sup>2</sup>, which at Executive Level was composed of<sup>3</sup>:
  - 1x SES Band 3
  - 1x SES Band 2
  - 1x SES Band 1
  - 6x EL Band 2
  - 6x EL Band 1
37. The proposed structure of the National Commissioner for Defence and Veteran Wellbeing is:
  - 1x SES Band 3
  - 1x SES Band 2
  - 1x SES Band 1

- 6x EL Band 2
- 13 x EL Band 1

38. As such, the estimated cost of the National Commission for Defence and Veteran Wellbeing is closer to \$50 million, comprising the National Commissioners additional responsibilities, additional EL Band 1 employees, and linked teams.

### Name

39. The findings of the Royal Commission may be wide ranging and go beyond findings that are specific to the prevention of suicide within serving and former serving members of the ADF.
40. Evidence provided to the Royal Commission has alluded to systemic issues within both the Department of Veterans' Affairs (DVA) and Department of Defence, which, while not directly linked to suicide, may have contributed to suicidality or poor mental health outcomes.
41. It is important that any statutory body tasked with oversight of the implementation of the recommendations is not limited to issues that can be directly linked to suicide but is empowered to take the broad and systemic approach employed by the Royal Commission itself.
42. For this reason, the naming of the position needs to be carefully considered to prevent a perceived limitation to the role, and the RSL suggests the National Commissioner for Defence and Veteran Wellbeing.

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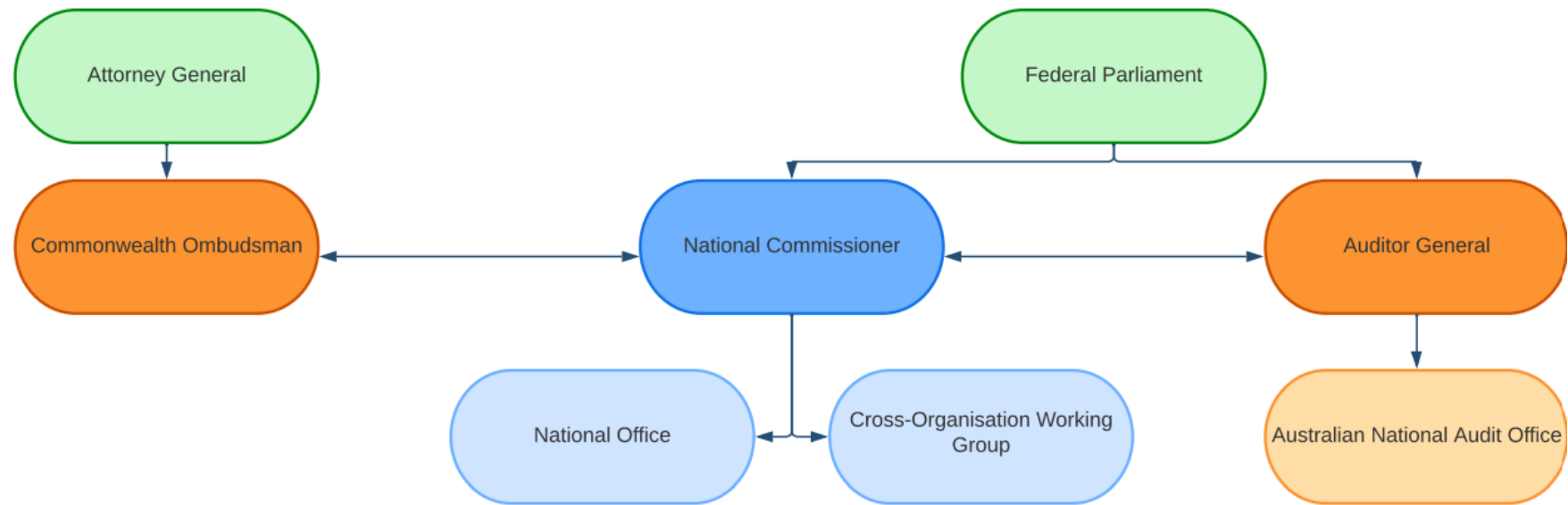
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## Candidates for leadership

43. As part of providing this response to the Royal Commission, the Stakeholder Reference Group indicated they would welcome a nomination for the role of leadership of the RSL's proposed Implementation Body.
44. However, the RSL does not believe it is appropriate to pre-suppose the best candidate for the role when it has not been able to conduct an appropriate merit-based selection process.
45. The RSL suggests that an open and competitive selection process should be utilised to choose the correct candidate for its proposed National Commissioner role.
46. The RSL also believes this process should be as consultative as possible, including evaluating feedback from ex-service organisations.

**Figure 1** -Structure of National Commissioner and enforcement mechanisms



**Responsible for**

A role as outlined in the *National Commissioner for Defence and Veteran Suicide Prevention Bill 2020*, with some additional

- Suicide Register
- Inquiring and reporting on deaths by suicide
- Collaboration
- Reporting on implementation of recommendations
- Education
- Implementing the findings of the Royal Commission

**Areas of Influence**

- State and Territory Coroners
- Federal Government, including Defence and DVA
- Defining the role of State Governments
- Community Stakeholders and ESOs
- Defence Members, veterans, and their families
- Wellbeing in transition, in collaboration with JTA, Defence, DVA and Defence community stakeholders

**Responsible for**

- Enforcement of delivery on recommendations made by the Royal Commission into Defence and Veteran Suicide
- Conduct audits of Federal Departments
- Report to Parliament on progress of recommendations
- Auditor General to report to the Prime Minister five years from commencement regarding progress of implementation
- Commonwealth Ombudsman to investigate complaints related to Defence and/or Veteran suicide

**Areas of Influence**

- Investigation of Federal Departments regarding Defence and/or Veteran Suicide
- ANAO to conduct targeted audits to track progress of implementation of Royal Commission recommendations
- ANAO to report regularly to Parliament on its findings
- Audits conducted on the recommendation of the National Commissioner



**Figure 2** - Proposed staffing of the National Commissioner's Office

