



Royal Commission Melbourne Hearing Block - 31 August 2023 [Day 4]

RSL References:

Positive:

Many people do not know that DVA exists, and cannot provide support. ESOs are often helping people and their families, where they are connected.

Negative:

General:

ESO must do more to ensure that defence families are supported and are not invisible.

Timeline:

8:31am – Session Commenced
8:35am – Witness sworn in
9:44am – Commonwealth objection
10:03am – Adjournment
10:35am – Recommended
12:02pm – Lunch adjournment
12:53pm – Recommended
3:02pm – Adjournment
3:20pm – Recommended
5:00pm – Adjournment
5:12pm – Recommended
5:55pm – Adjournment until 9:00am, 01 September 2023

Witness List:

Witnesses	Witness	Description
8:30-10:30am	Gwen Cherne <i>Veteran Family Advocate Commissioner</i> <u>CONTENT WARNING:</u> <i>Evidence may refer to suicide, suicide behaviours and domestic and family violence</i>	Commonwealth Witness
10:30-10:45am	Short Adjournment	
10:45-11:45am	Gwen Cherne Continued	Commonwealth Witness
11:45am-12:30pm	Lunch Adjournment	
12:30-2:30pm	Lieutenant Colonel Damien Spendelove <i>Deputy Director, Select Incident Review</i> Brigadier John Mackenzie, AM <i>Assistant Inspector General ADF</i> <u>CONTENT WARNING:</u> <i>Evidence may refer to suicide, suicide behaviours, drug and alcohol use, and domestic and family violence</i>	Commonwealth Witness
2:30-2:45pm	Short Adjournment	
2:45-4:45pm	Panel Continued	Commonwealth Witness
4:45-5:00pm	Short Adjournment	
5:00pm-5:30pm	Panel Continued	

*DFV – Domestic and Family Violence

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8:30-11:45am: Gwen Cherne

Evidence Tendered	
Type	Body / Comment
Verbal	The lack of investment for veterans has seen poor outcomes – that lack of investment and supports cannot meet the need of the community. The lack of understanding and acceptance of importance of families and the role they play, means they cannot support their serving members.
Verbal	DVA is working to be more family-inclusive, I do not think that all practices at DVA are family-inclusive and I think we are still working on a culture of fostering family-inclusive practices. There's other areas where we aren't getting these practices right. The significance of families for DVA is a no-brainer, if we are not including families, we are not providing support. Veterans are not islands, they are in a family support network somehow, and if there is something impacting them, and impacting the families. If we are not engaging with families we are not best providing support for veterans.
Verbal	Families pick up the pieces – they do a lot of the heavy lifting work and hold an enormous amount of information such as basic health information. Families pick up on a lot of things for claims that veterans may forget, or do not think of things that are impacting them. Families hold such valuable information.
Verbal	When a veteran is unable to organise appointments, families are a great source of support to help their veteran get the help they need. Not supporting families early-on means we decrease the amount of families we engage with when they are in-crisis. Holistic approaches will aid in providing better outcomes.
Verbal	We need to simplify the process for families to act on behalf of veterans – one simplified process. Not single authorities on certain things.
Verbal	We need to change the definition of families – we need to understand the evolving nature of families – families are not always nuclear. We need to include family who does not necessarily live with the veteran, but includes parents, or other people who the veteran identifies as family. DVAs definition of family is strongly based on financial support.
DVA.9999.0073.0025	Royal Commission into Defence and Veteran Suicide: Statement of Gwen Cherne
Verbal	There are competing priorities and convincing the Government that Defence families are unique is hard. It will be an enormous cost, but there is an ongoing enormous cost. There is not enough done for Carers, they are not well-enough recognised, there are not enough supports or pathways, into support education, healthcare, employment – we do not take into consideration the physical impact caring for veterans has on the carers and their families. Some fifty-years of caring has considerable impact on the carer – they do not receive any support, or healthcare, until their veteran dies. Where they experience DFV or marriage breakdown, the carer receives nothing.
Verbal	We need a Family Strategy – to codesign programmes and services for future investment into families – we need that framework to be right, and invest in those consultations.
Verbal	Most advice to Ministers is either through verbal communication to them directly, or their advisors. There are formal arrangements to discuss this with the Secretary of Departments, with fortnightly discussions. Formal advice is provided through executive boards and a number of hearing groups where that advice can be provided.
Verbal	There is a deep-seeded culture that families are add-ons. Families are seen as signing-up to this, and that most of our families are okay. There is a lack of appreciation for families, and they are seen as self-sufficient. There needs to be proactive and real investment into families and what is requested of them, and that their contribution directly impacts the safety and security of our nation. Families are not asking for handouts, they are requesting for support and pathways.
Verbal	There is a shift in DVA policy – we have seen improved investment for families. We have gone from 1.5 people working full-time on family policy, to recently 8.0 people. There hasn't been that investment in Defence – 30% of families cannot find support – we are not getting this right. Families have worse outcomes, we've seen this, worse outcomes in employment and health. We need legal frameworks that hold government to account, the worker-bees are working their tails off and need to ensure that they are no longer met with resistance.
Statement of Gwen Cherne, p[51]-[53]	This raises questions about the quantum of resources given to the Office. It raises broader questions as to whether the functions of the VFA should be concentrated in a single office holder, or whether it would be more effective to establish a federated network of 'Deputy State-based Advocates' to support the VFA (and potentially also the DFA).
Statement of Gwen Cherne, p[48]	Programs and initiatives to support veteran families are not consistently funded or resourced to a level that is commensurate with their need and significance.
Verbal	Not nearly enough information is provided to families – they are treated as if they <i>might</i> need services – but the reality is that <i>very few families</i> will not need support. March out's provide the perfect opportunity to provide families with the information they require to aid their serving member with postings and being away from their family.
Verbal	There was a recent survey for defence family, which was enlightening. A veteran widow saw themselves did not see herself a part of the veteran community. There needs to be recognition that veteran families exist, there needs to be recognition of a moral responsibility, not handouts, but

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	reducing barriers and hurdles that exist for families so they can live productive lives. Recognition, investment in programmes, real true communication
Verbal	There needs to be pathways for partner employment; recognition about the impacts carers feel through their caring roles. Children cannot be forgotten. Families deserve a postvention investment, support post-suicide – families experience a lack of recognition, a lack of support.
Verbal	Defence Families Australia made recommendations to government and none of those recommendations were acknowledged, or made it into final published reports.
Verbal	Lawyers who have been retained, acting as IGs, have undertaken and completed Compassionate Foundational courses to aid in interviewing those families and next-of-kins.
Verbal	

Questions		
Party	Question	Comments
Madeleine Bridgett	Why do you think it has taken so long for your position to be established?	Positions like mine aren't wanted. They are an investment that do not want to be made. Positions like mine make noise, cause conversations that are unpalatable. Supporting, creating and listening to the issues that these positions raise, means that conversations have to happen about difficult things with difficult solutions.
Commissioner Kaldas	Do we need a Charter to include families – or a policy document of some sort – to ensure families are included in the process?	Yes, that is the change we need.
Madeline Bridgett	How can DVA ascertain the needs of families if they are not surveyed?	There was a survey completed in response to this Government's response for DVA strategy, and a family strategy put out which received 5,000 responses. It was the first family-specific survey requesting for their needs. They (surveys) are limited and a very small number of widow's responded. We ascertain the needs of families through defence publications, scoping reports, individual work with families when they are working with veterans through claims.
Madeleine Bridgett	What advocacy do you do with DFMS?	Right after the Taipan incident, and since then, I have had engagement with DFMS on-the-ground, who are also invited to consultation sessions and meetings when I'm in their areas. There's ongoing contact through steering groups and meetings.
Madeleine Bridgett	Do you wish to make recommendations to the Commissioners?	We are forgetting our aging cohort; our Vietnam veterans – whose will to live is waning, we are not investing in them, we do not see them, there is not nearly enough advocacy. Not nearly enough is being done for them. Mothers, fathers, children, siblings, are still invisible in the community. Every part of this ecosystem must recognise that they exist, including every ESO out there, there will continue to be suffering and a tearing at the fabric of Australian society.
Commissioner Brown	Government doesn't want this role, or these roles, what has brought you to this view?	There's always a delay in filling roles that have important functions, I don't think that there is an individual, or a government that does or does not want these roles. They are roles that require more funding, more support, they are confronting and challenging roles to always look at and are unpalatable conversations to be had.
Commissioner Brown	Do you know how state, territory and Commonwealth government engagement could be improved?	Last week we had a State and Territory government meeting with advisors and Ministers who shared what was happening, and the discrepancies between concessions and benefits between states were discussed. There is still a lack of ability to get some of the things required to facilitate defence-life across the line in states and territories. We need to invest in defence life, capability and wellbeing.
Commissioner Brown	Have you found additional hurdles by policies that are not outlined or required by legislation?	I've encountered additional policies that are not required by legislation – hurdles, or requirements, faced by veterans and their families but not required by legislation.
Commissioner Douglas	Do you know if there's any idea or possibility of military spouses or partners being able to be employed in the provision of childcare where commercial childcare does not exist?	It goes back to employment pathways, there needs to be opportunities in overcoming issues such as geographic challenges, especially in places like RAAF Tindall.
Commissioner Kaldas	Looking at the UKs Covenant, we are looking at guiding recommendations to improve those protections, would you see the Covenant as being enforceable through legislation as a realistic way to improve things, or is there another way to improve things?	DVA is one of the most legislated areas of our government, in my personal opinion, if legislation is the only way to enforce investment, and hold people to account, then it might be the only appropriate way.

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Commissioner Kaldas	There is a need for more enforceable accountability. What would you like to see in place, specified, in legislation or otherwise, introduced to hold governments to account?	Following the Royal Commission, there has to be independent reviews, that cannot be amended, changed, ignored, something the community can use to hold government to account.
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12:50-2:50pm: Lieutenant Colonel Damien Spendelove, Brigadiere John Mackenzie AM

Evidence Tendered	
Type	Body / Comment
Defence Act 1903 (Cth)	
S 5(a) IGADF Regulation	
Guidance Manual p[6]	Preliminary phase; assessment phase; inquiry phase; case closure phase;
Verbal, Lieutenant Colonel Spendelove	The next-of-kin is invited to make any written submissions through our Legal Officers, DCS and once it is received – the report is reviewed to see what aspects may require refinements. Once the refinements have been made, then it is shipped off for higher approval.
Verbal, Lieutenant Colonel Spendelove	All deaths suspected to be suicide are now investigated, with full and comprehensive enquiries to determine whether those deaths actually were by suicide. Determining the deaths by suicide, the Directorate attempts to determine whether there is some service nexus associated with the death.
IGADF Regulations	To have arisen out of the member's service – this limb in section 5(a) s referred to as the causal test. How this analysis is approached to establish IGADF's jurisdiction to inquire into a death will vary according to the nature of the circumstances surrounding the death of the member.
Verbal, Lieutenant Colonel Spendelove	In one case, no nexus for service was found – but contributions to the member's death came from marital breakdown and other factors which could not determine the service nexus. There's often several competing and nuanced issues, which all have to be considered. Desktop reviews for suicide deaths have not been conducted during my tenure. There may be some complex issues that are overlooked in determining the death to be a service-connected suicide.
IGD.0007.0002.0007	(a) Death of a member of the Defence Force. If a competent civilian or military authority has declared a member to have died then DSIR will be required to assess or enquire into the death. The status of a Defence Member is usually established before DSIR is aware of a possible matter. Broadly, this status will include a Defence Member who, at the time of their death, is employed as any SERCAT between [2] and [7] in the ADF Total Workforce Model.
DEF.1063.0001.0001	IGADF Reports (Annex B) [7]. The average time between the date of death and release of the AGADF report was 575 calendar days. [8]. The average number of days between the member's death and release of the IGADF report was higher for: <ul style="list-style-type: none"> a. The death of permanent members (610 calendar days) b. Reports with recommendations (678 calendar days) c. Reports that found there was a Service nexus (690 calendar days) d. Reports involving allegations of unacceptable behaviour (786 days)
EXP.0011.0001.0011	Office of the IGADF Organisational Structure.
EXP.0011.0001.0011	In 2021-22, the average time taken to finalise complaints was 113 days.
EXP.0011.0001.0011	Service death enquiries: The Directorate finalised 32 enquiries into the deaths of ADF members during the reporting period. Of those deaths, the causes were: <ul style="list-style-type: none"> - 16% deaths are suicide-related.
Verbal	The publication of these reports take much too long. They need to be published much more quickly. There's systemic issues that are relevant to the Directorate, such as concerns around continuity of staffing, but has been present prior and during my tenure.
Exp.0011.0001.0126	Performance: staffing deficiency, many of them illness- and injury-related, in the IGADF Directorate of Select Incident Review caused significant challenges in the ability to address caseloads and to conduct interviews. During the reporting period, for a variety of reasons, there was a complete changeover of permanent staff.

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Verbal	The scope of the review is indicated in the document, with discussions relating to the process maps, with evidence provided about how that's operating and ways to improve it – there is significant assistance being provided in making contact with families who should have been notified about outcomes, but haven't been. It's being turned around and going in the right direction.
Report	Engaging with next-of-kin on draft report: The manner in which DSIR will engage with next-of-kin regarding a draft report will depend upon the category of death under consideration (see paragraph [11]). As a lengthier, more formal inquiry will almost always be required in the case of a death by suicide, the process for engaging with the next-of-kin is commensurately more details. The enquiry team will produce a draft report after engaging with the next-of-kin and other witnesses during the enquiry phase, after which the Director and the IGADF draft will clear the draft for the next-of-kin's review.

Questions		
Party	Question	Comments
Gabriella Rubagotti, Counsel Assisting	How does the Directorate, the IGADF attempt to determine that service nexus?	It is difficult to determine whether a threshold test is met early in the piece, especially with suspected suicide. Section 5(a) is not read in a strict sense, but there is an attempt to approach it pragmatically, applying the causal and temporal tests.
Commissioner Douglas	If looking at a death, a suicide which considers concerns about 'postings', then how is that an issue that is not service-connected?	Lieutenant Colonel Spendlove: in some situations, it could be considered to be a 'service connection' but requires to be looked at holistically to determine whether it was wholly or partially responsible for the death.
Commissioner Kaldas	An apparent or suspected death by suicide, does your office wait for the State or Territorial Coroner's Office wait for their report and findings?	No, it is done concurrently, so it is often done together – we do not wait as it is something that takes some time. Police statements often come in slower, with the coronial report, however, suspected deaths by suicide will undergo toxicology reports and similar.
Commissioner Kaldas	Are there guidelines with suggestions as to how to engage with the next-of-kin, using trauma-informed approaches?	Brigadier John Mackenzie AM: There is a compassionate foundations course which we are required to undertake, we are informed about our engagement processes through Defence Force Families. They are written down and we attempt to be compassionate in our dealings with grieving families and loved ones.
Commissioner Kaldas	Often, relationship and marital breakdown, has evidence supporting that it is contributed to by service. Why is that not being looked at?	No, that is not a focus – while relationship factors are not specifically looked at in the directions but would be looked at in interviews with family and other relevant witnesses but isn't singled out in standard operating procedures.
Commissioner Brown	IGADF is perceived as not being independent, seeking permission from other bodies, it's raised for me whether they are independent?	Lieutenant Colonel Spendlove: there is a residual jurisdiction for CDF or the Minister to enquire into other matters, but more broadly, I do not think that this aspect compromises the independence of the IGADF.
Gabriella Rubagotti, Counsel Assisting	Do you have a view on the perceived interruption of independence?	Through interactions with other agencies, there is an appetite with other Departments to come up with MOUs and would fetter our independence – there are other agencies that approach us, and I would agree in principle in what is reflected in that [redacted] paragraph. It is important – extremely important – to maintain independence and impartiality.
Gabriella Rubagotti, Counsel Assisting	Would you suggest that there would be benefit, as suggested by MB2 yesterday (30 August) in communicating with families regularly to ensure that there is minimised stress for them?	Yes, we try to but we need to ensure there are more regular updates. Something that alleviates the necessity for the requirements for updates is to ensure that reports are distributed after the draft report – typically four months – but we should aim to be more structured in our engagement and ongoing communication, with enquiry progress.

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