



Australian Government

Defence

Department of Veterans' Affairs

Australian Government Response to the Interim Report of the Royal Commission into Defence and Veteran Suicide

September 2022

Acknowledgement of Country

We acknowledge the Traditional Custodians of Country throughout Australia. We pay our respects to Elders past and present.

We recognise and celebrate Aboriginal and Torres Strait Islander people as the First Peoples of Australia and their continuing spiritual and cultural connection to land, sea and community.

Acknowledgement of Service

We respect and give thanks to all who have served in our defence force and their families.

We acknowledge the unique nature of military service and the sacrifice demanded of all who commit to defend our nation.

We undertake to preserve the memory and deeds of all who have served and promise to welcome, embrace, and support all military veterans as respected and valued members of our community.

For what they have done, this we will do.

Published by the Department of Veterans' Affairs
Canberra 2022

ISBN 978-0-6451779-5-4

Copyright

Unless otherwise noted, copyright (and other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia. With the exception of the Coat of Arms and all photographs and graphics, this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence. The Creative Commons Attribution 3.0 Australia Licence is a standard form licence agreement that allows you to copy, distribute, transmit and adapt this publication provided that you attribute the work. The full licence terms are available from www.creativecommons.org/licenses/by/3.0/au/legalcode.

About this document

Enquiries about this publication should be directed to:

DVA Royal Commission Taskforce (RCRIIT)
GPO Box 9998,
Brisbane QLD 4001

Enquiries can also be submitted via the DVA website
dva.gov.au/contact-us

This publication is available online at
dva.gov.au/publications

Department of Veterans' Affairs contact details

Telephone: 1800 VETERAN (1800 838 372)

The telephone enquiries service is available between 8am and 5pm, Monday to Friday. A call back can be requested through the DVA website or through MyService.

Mail: Department of Veterans' Affairs,
GPO Box 9998, Brisbane QLD 4001

Website: dva.gov.au

Social media: facebook.com/DVAAus;
twitter.com/DVAAus; youtube.com/DVATVAus

Information on other ways to contact DVA, including media and provider enquiries, is available at
dva.gov.au/contact.

Department of Defence contact details

Telephone: 1800 DEFENCE (1800 333 362)

The telephone enquiries service is available:
7.30am to 7pm, Monday
7.30am to 10pm, Tuesday
7.30am to 7pm, Wednesday to Friday.

Mail: Department of Defence
Russell Offices
Canberra ACT 2600

Website: defence.gov.au

Social media: defence.gov.au/social-media

Open Arms—Veterans & Families Counselling

Open Arms—Veterans & Families Counselling (Open Arms) is a national mental health service that provides free and confidential counselling, group programs and suicide prevention training for current and ex-serving ADF personnel and their families.

Open Arms is available 24/7—1800 011 046.
OpenArms.gov.au

Contents

Foreword	4
Introduction	5
Australian Government Response to Recommendations	6
Recommendation 1: Simplify and harmonise veteran compensation and rehabilitation legislation	6
Recommendation 2: Eliminate the claims backlog	7
Recommendation 3: Improve the administration of the claims system	8
Recommendation 4: The Department of Veterans' Affairs to provide advice on its funding needs	9
Recommendation 5: Remove the Department of Veterans' Affairs Average Staffing Level Cap	9
Recommendation 6: Increase protections for persons engaging with this Royal Commission	10
Recommendation 7: Provide exemption from parliamentary privilege	11
Recommendation 8: Limit public interest immunity claims	11
Recommendation 9: Improve administrative release of information	12
Recommendation 10: Co-design information to increase awareness of redactions for access requests	12
Recommendation 11: Embed trauma-informed practices for information access	13
Recommendation 12: Encourage up-to-date consent for information access	13
Recommendation 13: Co-design education on information access mechanisms	14

Foreword

Those who choose to serve our country in the Australian Defence Force make a commitment to protect our Australian way of life and the values we hold dearest – freedom, democracy, equality, respect and a fair go.

In return, it is our duty to meet their commitment in kind, looking after our service members and their families, both during and after their time in the ADF. This includes doing everything possible to prevent our service personnel, veterans and their families from experiencing the tragedy of suicide.

Australia has lost more service personnel and veterans to suicide in the last two decades than from active operations. This is a national tragedy.

For this very reason, we supported calls from the veteran community and their families to establish a Royal Commission into Defence and Veteran Suicide. This is an important opportunity to strengthen our approach to the mental health and welfare of ADF personnel, veterans and their families into the future.

Now, as the Australian Government, it is our duty to listen, learn and take action.

The Royal Commission's Interim Report is the culmination of the inquiry's work to date, encompassing over 2,000 submissions, 178 private sessions and testimony from 208 witnesses.

The Interim Report makes 13 recommendations which fall within three key themes: improving the claims process, Royal Commission administration and access to information by loved ones.

The Government has implemented one of the recommendations already (recommendation 5), agreed to nine, agreed in principle to one, and noted two others. The Government agrees with the Commissioners that urgent and immediate action is required.

Work is already underway but there is certainly more to be done.

We thank the Commissioners, Nick Kaldas APM (Chair), the Honourable James Douglas QC and Dr Peggy Brown AO for their work in producing the Interim Report and for their ongoing work on the Royal Commission.

We also thank those who have contributed to the inquiry, whether that be through making a submission or appearing as a witness; we appreciate the courage and bravery it takes to share your experiences.

To that end, we also encourage anyone that has insights to provide on the issues confronting our Defence personnel and veterans, to come forward and give evidence to the Royal Commission publicly or in private session.

Submissions remain open until 13 October 2023.



The Hon Richard Marles MP
Deputy Prime Minister
Minister for Defence



The Hon Matt Keogh MP
Minister for Veterans' Affairs
Minister for Defence Personnel

Introduction

On 8 July 2021, following agreement by the Governor-General of the Commonwealth of Australia, His Excellency General the Honourable David Hurley AC DSC (Retd), the Australian Government established a Royal Commission into Defence and Veteran Suicide. The inquiry's Terms of Reference enable it to examine systemic issues and risk factors relevant to defence and veteran death by suicide, including all aspects of support available to defence members and veterans.

The Letters Patent establishing the Royal Commission recognise the need for it to establish accessible and appropriate trauma-informed arrangements for people engaging with the inquiry.

Since commencing its work, the Royal Commission has held hearings in Brisbane, Sydney, Canberra, Townsville and Hobart. It has heard evidence from witnesses with lived experience or special expertise of defence and veteran suicide and witnesses from ex-service organisations, charities and Commonwealth agencies, including former ministers, Service Chiefs and their Senior Warrant Officers.

On 11 August 2022 the Royal Commission released its Interim Report, which made 13 recommendations. This document outlines the Australian Government's response to each of these. As the Royal Commission continues its important work, additional hearings will be held across the country to give all of those impacted by this issue the opportunity to share their stories and experiences. The Royal Commission's final report is due to be handed down by June 2024.

Australian Government Response to Recommendations

Recommendation 1: Simplify and harmonise veteran compensation and rehabilitation legislation

The Australian Government should develop and implement legislation to simplify and harmonise the framework for veterans' compensation, rehabilitation and other entitlements. To this end:

- (1) By no later than 23 December 2022, the Australian Government should:
 - (a) accept or reject recommendations made by the Productivity Commission in its report, *A Better Way to Support Veterans*, that relate to reforming the legislative framework
 - (b) if it rejects Productivity Commission recommendations 8.1, 8.4, 13.1, 14.1 and 19.1, adopt alternatives that will achieve similar or better levels of harmonisation and simplification of the legislative framework, and
 - (c) identify and decide all other policy questions relevant to designing a harmonised and simplified legislative framework.
- (2) By no later than 22 December 2023, the Australian Government should complete drafting of the legislation.
- (3) By no later than early 2024, the Australian Government should present to the Parliament, and seek passage of, its Bill for the proposed framework.
- (4) If the legislation is passed, the Australian Government should, by no later than 1 July 2024, begin the process of implementing and transitioning to the new legislative framework.
- (5) If the legislation is passed, the Australian Government should ensure that, by no later than 1 July 2025, the new legislation has fully commenced and is fully operational. (This does not preclude setting later deadlines for any choices that might need to be made by veterans.)
- (6) The Australian Government should allocate to the Department of Veterans' Affairs (DVA), the Office of Parliamentary Counsel and other relevant agencies adequate resources to design, prepare, draft and implement the proposed legislation within the timeframes above, and to administer the new legislation once it has commenced. The allocation of these resources to DVA should not be offset by reductions in other resourcing of DVA.

Australian Government Response

The Government **agrees** to this recommendation.

The Government will develop a pathway for simplification and harmonisation of veteran compensation and rehabilitation legislation on the basis of this recommendation, noting that funding will be considered in the context of budget processes and fiscal constraints. The timing of implementation will be informed by what is required for necessary consultation and the passage of legislation.

Recommendation 2: Eliminate the claims backlog

The Department of Veterans' Affairs (DVA) should eliminate the backlog of claims under the *Veterans' Entitlements Act 1986* (Cth), the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (Cth) and the *Military Rehabilitation and Compensation Act 2004* (Cth) by 31 March 2024. To this end:

- (1) DVA should accurately advise the Australian Government on the resourcing that it needs to eliminate the claims backlog by 31 March 2024.
- (2) The Australian Government should provide DVA with the resources it needs to eliminate the claims backlog by 31 March 2024. The allocation of these resources to DVA should not be offset by reductions in other resourcing of DVA.
- (3) Leading up to 31 March 2024, DVA should undertake regular monitoring of claims and other data, to check whether the elimination of the backlog is on track.
- (4) Leading up to 31 March 2024, the Australian Government and DVA should implement corrective action(s) if the elimination of the backlog is not on track. DVA should monitor the effectiveness of corrective actions taken.
- (5) DVA should routinely, publicly and meaningfully report on its progress in reducing the claims backlog and claim processing times.
- (6) DVA should ensure that efforts to reduce the backlog do not reduce the quality of decisions made about claims, and do not adversely affect veterans' experiences of the claims process.

Australian Government Response

The Government **agrees** to this recommendation.

The Government recognises that the current claims backlog is unacceptable and that is why it committed at the last election to employing 500 additional DVA staff to tackle this backlog. Recruiting these staff is already underway.

Eliminating the claims backlog is a priority and will be closely monitored and routinely reported. Reducing claim processing times is also a priority, along with maintaining the quality of claims decision making. Work in addition to the employing of 500 additional staff is already underway as well as looking at what further work can be done to improve claims processing, including implementing relevant recommendations from McKinsey & Company (see response to Recommendation 3 below).

DVA has advised the Government that based on the current rate and projected rates of claims being lodged, the employment of these additional staff over the next two years will enable it to remove the backlog of claims by 31 December 2023, without adversely affecting the quality of decisions or the experience of veterans in having their claims processed. Any necessary corrective actions will be undertaken to ensure elimination of the backlog remains on track and are eliminated by 31 March 2024 at the latest.

DVA has already commenced publishing meaningful statistics on claims processing on its website at: <https://www.dva.gov.au>.

Recommendation 3: Improve the administration of the claims system

The Australian Government should improve the administration of the Department of Veterans' Affairs (DVA) claims system by 1 July 2024. The changes pursued should aim to improve veterans' experience of the claims system, remove complexity from the system and enhance efficiency in claims processing. To this end:

- (1) DVA, having taken account of the advice received from McKinsey & Company and other relevant sources, should advise the Australian Government about potential measures it could include within a program of work aimed at improving the administration of the claims system.
- (2) The Australian Government and DVA should decide upon the improvement measures to be undertaken within the program of work.
- (3) The Australian Government should provide DVA, and any other relevant agencies, with the resources needed to implement the agreed program of work. The allocation of these resources to DVA should not be offset by reductions in other resourcing of DVA.
- (4) The Australian Government should seek passage of any legislative amendments required to implement the agreed program of work.
- (5) DVA, and any other relevant agencies, should implement the program of work by 1 July 2024.
- (6) DVA should publicly report on progress towards implementing the program of work on a quarterly basis.
- (7) DVA should publicly report on the expected benefit of each measure included within the program of work, and, once implemented, report on the degree to which each benefit has been realised.

Australian Government Response

The Government **agrees** to this recommendation.

The Government recognises that some veterans and families do not have a good experience accessing support they deserve.

The Government will consider ways to improve the veterans' experience of the claims system, remove complexity and enhance efficiency in supporting veterans and families navigating the veteran support system.

Measures to improve the claims system will be considered by Government, along with any necessary legislative amendments.

The Government notes that work is already underway in response to this recommendation, taking into account the recommendations of McKinsey & Company's claims process diagnostic to improve the administration of the claims system.

The overall benefits of the implementation of the work program will be demonstrated in the efficiencies reported as noted in the response to Recommendation 2 above.

Recommendation 4: The Department of Veterans' Affairs to provide advice on its funding needs

The Department of Veterans' Affairs (DVA) should provide advice to the Australian Government about its funding needs. To this end:

- (1) By 31 March 2023, and at least twice per year thereafter, DVA should provide advice to the Australian Government about:
 - (a) its future departmental funding needs, and
 - (b) factors leading to uncertainty about DVA's future departmental funding needs.
- (2) The Australian Government should use this advice to inform the departmental funding it provides to DVA.
- (3) The Australian Government should provide any resources to DVA, and any other relevant agencies, to enable DVA to provide adequate advice regarding its future funding needs as specified above. The allocation of these resources to DVA should not be offset by reductions in other resourcing of DVA.

Australian Government Response

Government **agrees** to this recommendation.

The Government recognises the importance of closely monitoring, reporting and responding to the changing needs of veterans and families.

The Department of Veterans' Affairs will provide advice in line with the Budget and Mid-Year Economic and Fiscal Outlook (MYEFO) processes on resourcing requirements and factors leading to uncertainty in those requirements wherever possible, but also notes there may be a need for out-of-cycle considerations.

Recommendation 5: Remove the Department of Veterans' Affairs Average Staffing Level Cap

The Australian Government should remove, on a permanent basis, the application of the Average Staffing Level (ASL) cap policy on the Department of Veterans' Affairs.

Australian Government Response

Consistent with its election commitment, the Government has removed the ASL cap across all government agencies, including the Department of Veterans' Affairs.

Recommendation 6: Increase protections for persons engaging with this Royal Commission

The Australian Government should work closely with this Royal Commission to design urgently an amendment or series of legislative amendments that provide protections for persons who wish to provide relevant information to this Royal Commission, including the two following cohorts:

- (1) For serving ADF members disclosing sensitive personal information who are currently, and intend to remain, in service, similar protections to section 6OP of the *Royal Commissions Act 1902* (Cth) should be introduced.
- (2) For serving and ex-serving ADF members whose lived experience is intrinsically linked to security classified or operationally sensitive information, the defence available under the Criminal Code section 122.5(5) should be extended to cover information communicated to a Royal Commission. A defence to other secrecy offences will also be needed.

Australian Government Response

The Government **agrees in-principle** to this recommendation.

The Government will take forward suggested legislative reforms to the *Royal Commissions Act 1902*. The Government will consult the Royal Commission and other key stakeholders on drafting of the amendments.

The Government agrees serving and ex-serving ADF members should have protections to communicate information to the Royal Commission without breaching the general secrecy offences in the Criminal Code. To achieve this, the Government welcomes continued engagement with the Royal Commission in relation to the agreement referred to in Chapter 6.2 of the Interim Report. Conclusion of this agreement will permit serving and ex serving ADF members to access existing defences, including paragraph 122.5(1)(b) of the Criminal Code.

The Government will also consider secrecy offences for future Royal Commissions as part of the Secrecy Provisions Review being undertaken by the Attorney-General's Department.

Recommendation 7: Provide exemption from parliamentary privilege

Where their terms of reference require an examination of government, Royal Commissions should be made exempt from section 16(3)(c) of the *Parliamentary Privileges Act 1987* (Cth)

Australian Government Response

The Government **notes** this recommendation.

The Government recognises the importance of Royal Commissions being able to thoroughly investigate, and provide recommendations in relation to their terms of reference and is committed to assisting Royal Commissions to conduct their inquiries.

The *Parliamentary Privileges Act 1987* provides important protections for freedom of speech in Parliament. Section 16 of the Act protects proceedings in Parliament from being questioned or impeached in a court or tribunal. Broadly, section 16(3)(c) prevents the drawing of inferences or conclusions from proceedings in Parliament, in any court or tribunal (which includes a Royal Commission).

The Government considers that Royal Commissions can carry out their functions without infringing section 16(3) (c).

Recommendation 8: Limit public interest immunity claims

The Australian Government should reform immediately policies and practices related to public interest immunity to limit claims to where there is a specific harm contemplated from disclosure to Royal Commissions. Where there is uncertainty about potential harm, mechanisms within the *Royal Commissions Act 1902* (Cth) should be used to support the production of the document or information.

Australian Government Response

The Government **notes** this recommendation.

The Government agrees with the need for Royal Commissions to have access to the information they need to ensure their work is effective and efficient.

The Government also recognises the significant harm that public interest immunity (PII) is designed to guard against. For example, there is a strong and longstanding convention that deliberations and discussions within Cabinet remain confidential. This is to preserve and support the principle of collective responsibility, which is critical to our system of government.

The Government will improve policies and practices to streamline and introduce additional rigour around the use of PII claims in Royal Commissions. This will include clarifying the bases on which PII claims are made, and introducing additional requirements regarding the justification of claims.

Recommendation 9: Improve administrative release of information

The Australian Government should:

- (1) by March 2023, produce and publish administrative release guidelines to better support applicants to access information held by the Department of Veterans' Affairs and Defence, and
- (2) immediately prioritise use of administrative release and proactively work with applicants to facilitate access via this process, including following a request for information under the *Freedom of Information Act 1982* (Cth) and the *Privacy Act 1988* (Cth) – but without delaying or restricting processes under either of these Acts.

Australian Government Response

The Government **agrees** to this recommendation.

The Government recognises how clear, published, department-wide, trauma-informed policies regarding the administrative release of information, consistent with Australian information law principles, would empower both applicants and decision makers.

The Government further recognises how such policies would enable the proactive use of administrative release for applications for information, whether made under or outside the *Freedom of Information Act 1982* (Cth) and the *Privacy Act 1988* (Cth).

The Government also recognises the importance of consultation on the means of information access, as well as education about processes, and will seek to do so consistently with its work on Recommendation 13 below.

Defence and DVA have commenced work towards this recommendation.

Recommendation 10: Co-design information to increase awareness of redactions for access requests

The Australian Government should engage with serving and ex-serving Australian Defence Force (ADF) members and their families to complete by March 2023 co-design information to raise the awareness of redaction and how it might apply to information provided to applicants seeking information from Defence or the Department of Veterans' Affairs under all information access request mechanisms.

Australian Government Response

The Government **agrees** to this recommendation.

The Government, through Defence and DVA, will undertake co-design with serving and ex-serving Australian Defence Force members and families to raise awareness of redaction and how it applies to accessing information from Defence or DVA.

Defence and DVA have commenced work towards this recommendation.

Recommendation 11: Embed trauma-informed practices for information access

Trauma-informed practices should be embedded in Defence and the Department of Veterans' Affairs (DVA) interactions with individuals seeking information from either department. These trauma-informed practices should form part of ongoing training for relevant personnel in each department.

Where possible, there should be a single point of contact within each of Defence and DVA to provide continuity and consistency to applicants seeking information from within each agency.

Australian Government Response

The Government **agrees** to this recommendation.

The Government acknowledges that serving and ex-serving ADF members and their families may seek information at times of vulnerability or stress. The Government recognises that adopting a trauma-informed approach when interacting with a person seeking information, regardless of why that person is seeking information, provides an opportunity to better support current and former ADF members and their families.

The Government will leverage the work already undertaken by DVA through the Veteran Centric Reform program and the recent Defence improvements to information exchange practices, recognising that more needs to be done to ensure that a trauma-informed process is consistently applied across Defence and DVA.

The Government recognises the importance of the provision of a single point of contact for applicants and support to prepare and digest the information supplied as part of a trauma-informed process.

Defence and DVA have commenced work towards this recommendation.

Recommendation 12: Encourage up-to-date consent for information access

By March 2023, the Australian Government should increase the number of opportunities for serving or ex-serving ADF members to provide or amend their consent to disclose, information to family members or nominated representatives.

Australian Government Response

The Government **agrees** to this recommendation.

The Government, through Defence and DVA, will optimise and increase the opportunities available to serving and ex-serving ADF members to provide or change consent to Defence or DVA to provide their personal information to other persons.

Defence and DVA have commenced work towards this recommendation.

Recommendation 13: Co-design education on information access mechanisms

The Australian Government should engage with serving and ex-serving ADF members and their families in order to complete, by March 2023, co-designed education material on information access mechanisms used by Defence and the Department of Veterans' Affairs (DVA). Educational material should be targeted to serving and ex-serving ADF members and their families.

Australian Government Response

The Government **agrees** to this recommendation.

The Government, through Defence and DVA, will co-design education material, targeted to serving and ex-serving ADF members and their families, to enhance their understanding of the information access mechanisms and the trauma-informed supports available to those accessing information.

Defence and DVA have commenced work towards this recommendation.

