

17 January 2023

Emma Swinbourne
Assistant Secretary
Royal Commissions Branch
Attorney-General's Department

Via email: RoyalCommissionsConsultation@ag.gov.au

Dear Ms Swinbourne,

RE: Consultation - changes to the Royal Commissions Act for the Royal Commission into Defence and Veteran Suicide

Thank you for the invitation to provide feedback on the proposed changes to the *Royal Commissions Act 1902*. Suicide Prevention Australia strongly supports extending protections for those disclosing sensitive information to the Royal Commission outside of private sessions. In making these changes we recommend that the following is considered:

- Protections should cover disclosures of any experiences relating to suicide, suicidality, and poor mental health outcomes
- Protections should cover disclosures that directly or indirectly identify their source
- Consideration should be given to extending the offences in sections 6M and 6N to confidential information given outside a private session
- The changes should be made as rapidly as possible

These issues are outlined in more detail below.

Suicide Prevention Australia is the national peak body for suicide prevention. We have over 390 members including organisations with a total of more than 140,000 staff and volunteers across Australia. We provide a collective voice for service providers, practitioners, researchers, local collaboratives, and people with lived experience.

Defence and veteran suicides are a key concern for our sector, and we strongly support government actions to reduce these suicides. The work and outcomes of the Royal Commission into Defence and Veteran Suicide will be critical in driving further government action and reform, and so it is important to ensure it is informed by all perspectives. For this reason, we strongly support extending protections for those disclosing sensitive personal information to the Royal Commission outside private sessions. In making the legislative changes to extend protections we recommend that the following issues are considered:

Covering disclosures of any experiences relating to suicide

It is proposed that information would be protected where it “contains an account of lived experience of the suicide of another, suicidality or poor mental health outcomes”. This stipulation is too narrow given the scope of the Royal Commission’s inquiries. The Letters Patent for the Royal Commission is appropriately broad and requires inquiries into systemic issues and



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risk, protective, and rehabilitative factors relating to suicide, feelings of suicide and poor mental health outcomes. Also included are inquiries into the impact of ADF, DVA and Defence culture on physical and mental wellbeing, and the role of NGOs in providing services and support. This breadth of scope is appropriate particularly because, as numerous veterans have made clear, these systemic and cultural issues are significant contributors to moral injury and suicidal behaviour. Disclosure may include accounts of systemic violence or maladministration, that do not directly lead to suicidal behaviour, but are part of the overall conditions that increase the risks of suicide. For this reason, protections should not be restricted to only experiences of suicide and poor mental health, but should extend to cover any experiences that relate to suicide, suicidal behaviour, and poor mental health.

Covering disclosures that directly or indirectly identify the person who gave the information

It is proposed that information would be protected where it “identifies the person who gave the information, or on whose behalf the information was given”. While we understand that this wording doesn’t necessarily reflect the intended final wording in the legislative change, there is a critical difference between this wording and that of section 6OP on which it is based. Section 6OP refers to information that “directly or indirectly identifies”. The wording of section 6OP clarifies that a broad interpretation is to be taken as to whether the information identifies its source. We would recommend that the proposed legislative changes use this wording from section 6OP.

Extending the offences in sections 6M and 6N

In the report of the Attorney-General’s Department’s [Royal Commissions Protections Review](#), Recommendation 5 was that “The department give further consideration to extending the offences in sections 6M and 6N to confidential information within the scope of section 6OP of the Royal Commissions Act.”

As you would be aware, these are offences for engaging in retribution against individuals appearing as a witness before a Royal Commission. Subsection 6OC(5) extends these offences to apply to retribution against individuals giving information in private sessions. And the recommendation of the review was they should be further extended to apply when information was given that was covered by section 6OP, where information was given to the Disability Royal Commission outside of a private session.

Since the currently proposed changes are to be similar to those in section 6OP, this recommendation also applies here. We recommend that a section be drafted for inclusion, similar to subsection 6OC(5) of the Royal Commissions Act, to provide that these offences also apply in circumstances where detriment is caused to a person providing sensitive information to a Royal Commission outside a private session.

Rapid implementation of these changes

The letters patent for this Royal Commission were issued in July 2021, and the Commission will deliver its final report by June 2024. This means it is already more than half-way through its term





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of operation and these critical protections are not yet in place. We urge that this important legislative reform is progressed as rapidly as possible.

Thank you again for giving Suicide Prevention Australia the opportunity to provide input on these important changes. If you require any further information please contact Christopher Stone, Policy and Government Relations Manager, chriss@suicidepreventionaust.org.

Yours sincerely

Nieves Murray
Chief Executive Officer



Patron: His Excellency General the Honourable
David Hurley AC DSC (Retd)

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