



**RSL AUSTRALIA**

ROYAL COMMISSION INTO DEFENCE AND VETERAN SUICIDE

# PROPOSAL FOR IMPLEMENTATION OF RECOMMENDATIONS

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## Introduction

1. This paper provides RSL Australia’s 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. RSL Australia notes that this proposal is provided in advance of the Royal Commission concluding its work and before a final report and recommendations are provided to the Australian Government. Therefore, this proposal should be read as referring to both the interim recommendations and the final recommendations once available and accepted (or otherwise) by the Government.
3. RSL Australia agrees with the Commissioners’ calls and advocates for the establishment of an appropriately resourced, transparent and accountable body to oversee implementation of the interim and forthcoming final recommendations of the Royal Commission into Defence and Veteran Suicide.
4. RSL Australia suggests that the implementation body should be independent of Government and established by an Act of Parliament.
5. RSL Australia proposes an implementation body that leverages and combines the roles of the previous Interim National Commissioner for Defence and Suicide Prevention, with a body that works with the Auditor General’s Office, the Australian National Audit Officer (ANAO), Inspector-General of the Australian Defence Force (IGADF) and the Commonwealth Ombudsman to investigate and report on the actions and progress of the Australian Government and its entities to implement the recommendations of the Royal Commission, and which has the capacity to provide appropriate support and guidance to non-government entities.
6. RSL Australia proposes that this can most effectively be realised through the establishment of a National Commissioner for Defence and Veteran Wellbeing and a National Office for Defence and Veteran Wellbeing.

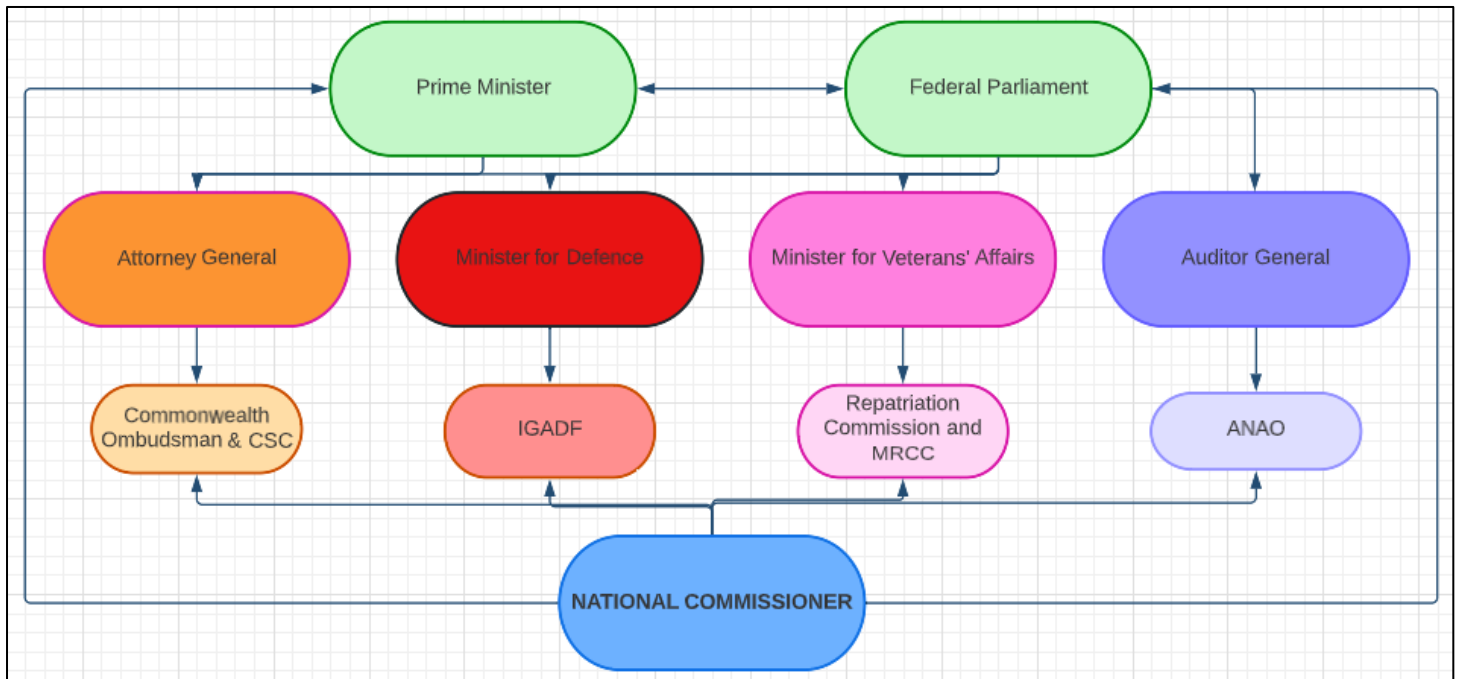
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<sup>1</sup> Royal Commission Interim Report Pg 147

## National Commissioner for Defence and Veteran Wellbeing

7. RSL Australia suggests that establishing the new role of a National Commissioner for Defence and Veteran Wellbeing could be achieved by effectively reinstating and renaming the previously called 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)*.
8. RSL Australia proposes that the objects of the Act to establish the National Commissioner for Defence and Veteran Wellbeing are informed by the findings of the Royal Commissions and that they include:
  - Promote the reduction of unnecessary administrative requirements and simplification of legislation for current serving and former serving members of the ADF in accessing funding and services to support their wellbeing
  - Maintain, protect and enhance public trust and confidence in the ADF through increased accountability and transparency
  - Support and sustain a robust, diverse and independent ex-service organisation sector
9. RSL Australia advocates that a renewed and renamed Commissioner role will be better positioned to respond to the contemporary and changing needs of current serving and ex-serving ADF members, including suicide prevention and response, along with wider wellbeing, and to enable sustained action from a strengths-based, trauma-informed perspective.
10. An explanation for this is provided at paragraphs 21-23 of this document.
11. RSL Australia advocates that the National Commissioner for Defence and Veteran Wellbeing is a statutory officer with a dual mandate, empowered to independently:
  - Oversee implementation of the recommendations of the Royal Commission into Defence and Veteran Suicide by the Government and its entities
  - 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. This role would have an ongoing function (see para 16)
  - To monitor and report to relevant Ministers on the performance of Defence, DVA, and other Government departments, where identified issues may impact on the mental health and wellbeing of veterans, and the implementation of the recommendations of the Royal Commission.
12. By enshrining the role in legislation, the responsibilities, actions and independence of the National Commissioner for Defence and Veteran Wellbeing will be ongoing, subject to review, accountable and transparent.
13. As a statutory office holder, the National Commissioner for Defence and Veteran Wellbeing will necessarily need to be able to exercise their role independent from the Government, and be able to legally enforce decisions made through associated 'enforcement' bodies – i.e. the Auditor General, the ANAO, the Commonwealth Ombudsman and the IGADF.

14. Further details of these roles are provided on pages 12-13, while an outline of the suggested structure of the Machinery of Government is available below:



**Fig.1:** Proposed relational settings of Government for enforcement mechanisms with the National Commissioner for Defence and Veteran Wellbeing

## Oversight of implementation of Royal Commission recommendations

15. Under the proposed model, the first function of the National Commissioner for Defence and Veteran Wellbeing would have responsibility for supporting, monitoring and reporting progress towards implementation of the recommendations of the Royal Commission.
16. As part of this role, the powers and responsibilities of the National Commissioner could usefully include:
  - The statutory power to commission the Auditor General to request audits by the ANAO within the scope of the Royal Commission findings. The Auditor General would be guided by the findings of the Royal Commission into Defence and Veteran Suicide when determining audits to be conducted by the ANAO. An audit would seek to establish DVA's compliance with the Commission findings and making recommendations of further progress required
  - The statutory power to commission the Minister for Defence to request audits by the IGADF within the terms of the Royal Commission findings. The IGADF is well placed to report on many of the findings of the Royal Commission, for example – conducting inquiries into the deaths of ADF members by suicide or suspected suicide. The IGADF would report its findings to the Minister for Defence, and then Parliament.
  - The statutory power to refer complaints received by the Commissioner relating to the implementation of recommendations of the Royal Commission into Defence and Veteran Suicide to the Commonwealth Ombudsman for investigation
  - The power to make recommendations to Federal Government Departments, such as Defence and DVA and directly to Ministers, regarding the findings of the ANAO, the IGADF and the Commonwealth Ombudsman.
17. As part of this role, the powers and responsibilities of the National Commissioner could usefully include:
  - Monitoring, obtaining, and reporting on relevant performance data (where performance issues have been identified by the Royal Commission) from Coroners' Offices, Defence, DVA, and other Government Departments
  - Working with 'enforcement bodies' (ANAO, IGADF and the Commonwealth Ombudsman) to audit progress towards implementing the recommendations of the Royal Commission into Defence and Veteran Suicide (The roles and powers of these enforcement bodies ((as relevant to this proposal)) are outlined in Attachment A)
  - Continuing to monitor the findings of the 'enforcement bodies,' and report directly to Parliament annually on the implementation of recommendations
  - Making suggestions (where necessary) regarding the implementation of the Royal Commission recommendations to Ministers responsible for its implementation
  - 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 health system, the ESO sector, and those with lived experience.
18. RSL Australia suggests that the National Commissioner for Defence and Veteran Wellbeing is required to report annually to Parliament about implementation progress. We further suggest that the National Commissioner role and responsibilities are reviewed at the five-

years' post establishment point against the original scope and settings of the enabling instruments.

19. RSL Australia suggests that the annual report from the National Commissioner for Defence and Veteran Wellbeing informs the continuous assessment and budgetary considerations of stakeholder departments, particularly DVA and Defence.
20. RSL Australia suggests that the recommendations of the Royal Commission inform the annual performance settings for senior leadership of stakeholder departments, to inform fulsome and transparent understanding of progress in implementing them across government. RSL Australia envisages that this may include provisions and inclusions to enable assessment against the Work Level Standards (WLS) of the Senior Executive Service (SES) of the Australian Public Service (APS).

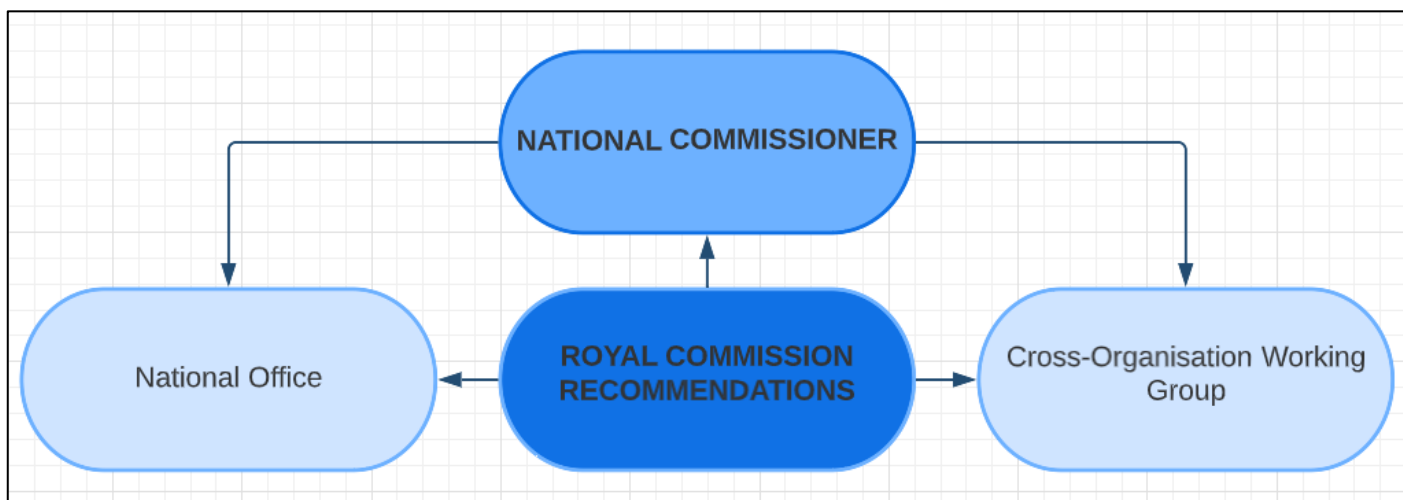
## Meeting the sustained need for a National Commissioner for Defence and Veteran Wellbeing

21. RSL Australia recommends the Commissioner role be established as a permanent body, with options to alter the settings at the five-year review point (see item 14). This would be embedded once the early primary role in relation to the implementation of the Royal Commission findings is underway to help inform budgetary settings over forward estimates.
22. As the implementation of the recommendations progresses, the role of National Commissioner for Defence and Veteran Wellbeing envisioned in draft legislation could be commenced.
23. The role could 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 better understand issues contributing to Defence Member and veteran deaths by suicide
  - Maintaining data about 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
  - Examining the mandated roles and responsibilities of Federal Government departments and entities with responsibility for Defence and veteran wellbeing
  - Strengthening collaboration between agencies and organisations across the service system, including ESOs
  - Examining DVA and Defence health services provision, including possible reform and rebuilding if required. This would necessarily include reporting on metrics related to both DVA and Defence health management and services.
  - 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 and CDF 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 for Defence and Veteran Wellbeing

24. RSL Australia proposes that the National Commissioner for Defence and Veteran Wellbeing be supported by a National Office for Defence and Veteran Wellbeing.



**Fig 2:** Proposed setting of the National Office for Defence and Veteran Wellbeing

25. The proposed role of the National Office for Defence and Veteran Wellbeing to include:

- Administrative support to the National Commissioner for Defence and Veteran Wellbeing in the delivery of Royal Commission implementation-related outcomes
- Development of the priority actions for the Australian Government and its entities in implementing the recommendations of the Royal Commission
- Executive support
- Provision of legal advice on appropriate matters
- Facilitating liaison and consultation between the National Commissioner for Defence and Wellbeing, Parliament, veterans and their families, the ESO sector and other stakeholders
- Provision of support and guidance to the ESO sector as particular stakeholders and partners in helping government to implement the recommendations of the Royal Commission
- Data collation, analysis and reporting
- Dealing with queries and issues as they arise
- Release of information to the public
- Public affairs, public education, marketing, and communications.

## Advisory Group on Defence and Veteran Wellbeing

26. RSL Australia proposes that the National Commissioner for Defence and Veteran Wellbeing would also be supported by a cross-organisational Advisory Group.
27. The members of the Advisory Group could include, but not be limited to, representatives from Defence, DVA, Coroners' Offices, State Governments, the health system, the ESO and private sectors, and those with lived experience.
28. The Advisory Group could consist of part-time members from a diverse range of experiences, including civilians and veterans with experience in insurance, workers' compensation, public policy, legal fields, health community services and those with lived experience of defence service and transition.
29. RSL Australia suggests that the terms of reference and scope of the Advisory Group can best be developed through co-design with potential participants and representative organisations.
30. The proposed National Office for Defence and Veteran Wellbeing will likely be best placed to provide secretariat functions to the Advisory Group.
31. RSL Australia notes that members of the Advisory Group may require appropriate support to enable their participation, including the provision of information and meetings in accessible formats, and professional supervision where required to ensure the health and wellbeing of members is upheld.
32. RSL Australia expects that collaboration and co-design are likely to underpin the recommendations of the Royal Commission. As such, the Advisory Group would not replace the need for broader stakeholder consultation by the National Commissioner and National Office for Defence and Veteran Wellbeing. It would be positioned and enabled to provide timely expert and informed advice from a cross-section of stakeholders on agreed priority issues.
33. The creation of the proposed Advisory Group additionally addresses Recommendation 11.4 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. (Page 525 Vol 2) - [Inquiry report - A Better Way to Support Veterans - Productivity Commission \(pc.gov.au\)](#)
34. RSL Australia proposes the functions of the Advisory Group include:
  - Provision of advice about opportunities for structural and procedural changes to better enable implementation of the recommendations of the Royal Commission
  - Provision of advice about the types of supports that the National Office for Defence and Wellbeing can usefully provide to the ESO sector and other stakeholders to strengthen implementation activities
  - Support the provision of information and reporting to the ESO sector and broader stakeholders from the National Office for Defence and Veteran Wellbeing
  - Provision of advice about defence and veteran wellbeing before, during and after transition
  - Support collaboration with the Joint Transition Authority, DVA and community stakeholders on transition issues to inform the work of the National Office for Defence and Veteran Wellbeing
  - Provide reporting to the National Commissioner regarding timelines for implementation of Royal Commission recommendations, in addition to the National

Commissioner's monitoring and reporting activities (to government and other bodies on implementation progress).

35. RSL Australia suggests that the Advisory Group meet at least quarterly, or more frequently in the initial stages, and meet the Minister for Defence and Minister for Veterans' Affairs at least twice per year.

## **Enforcement, Transparency and Accountability**

36. RSL Australia suggests that to empower the National Commissioner for Defence and Veteran Wellbeing to meet expectations of transparency and accountability, it is advisable for the Commissioner to work with the Auditor General, ANAO, IGADF and the Commonwealth Ombudsman to access for enforcement actions.
37. If the Royal Commission makes recommendations in relation to the Commonwealth Superannuation Corporation or Military Superannuation arrangements, the National Commissioner will also need to work through the Minister for Finance to have audits of that body conducted by ANAO.

### **Working with the Auditor General and the ANAO**

38. The National Commissioner would work with Auditor General and ANAO regarding performance accountability of Departments that have recommendations for reform made to them by the Royal Commission, including annual performance audits, reporting annually to Parliament the audits undertaken at the recommendation of the National Commissioner.
39. Performance accountability of the National Commissioner and National Office to be identified in collaboration with the Auditor General. This would require the enabling legislation for the National Commissioner and National Office to include a provision for the Auditor-General to undertake a review of the Commissioner and National Office at five-years post establishment, against the original settings and scope, with the review to be provided to Parliament.

### **Working with the CDF and the IGADF**

40. CDF and the IGADF would be tasked with conducting performance audits of Defence or the individual Services regarding the implementation of Royal Commission's recommendations which are specific to them, with the IGADF required to report annually to Parliament reviewing progress towards meeting those particular recommendations.

### **Working with the Commonwealth Ombudsman**

41. The Commonwealth Ombudsman would investigate matters within its remit in instances where the National Commissioner has received complaints regarding the implementation of the recommendations of the Royal Commission.

### **The benefits of the proposed structure**

42. The benefits of the proposed structure are that they leverage the existing settings and operations of the different office holders:
  - The current settings of the Auditor General allow for reporting directly to Parliament, with existing resources and capability to perform this function
  - The Auditor General, supported by the ANAO, has an existing obligation to table reports to Parliament
  - The ANAO has the authority to ask questions of Federal Government Departments, which can provide the investigative powers that may be required by the National Commissioner for Defence and Wellbeing to identify any barriers or delays 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 for

Defence and Veteran Wellbeing to successfully facilitate implementation of the recommendations of the Royal Commission

- The ANAO has a continuing role auditing Defence through the annual Defence Major Projects Report mechanism
- The IGADF provides a means for reviewing the performance of the ADF military justice system independent of the ordinary chain of command, including the conduct of internal audits of ADF units, ships and establishments
- The IGADF can conduct inquiries into the death of ADF members either in Australia or overseas, where the death appears to be linked to service
- The IGADF provides an avenue for the Minister or CDF to conduct inquiries into or investigate any matter concerning the ADF

43. It is expected that collaboration between the Auditor General, ANAO, IGADF and the Commonwealth Ombudsman to support the functions of the proposed Commissioner for Defence and Veteran Wellbeing, would likely require:

- Some expansion of settings and resources to accommodate the additional requirement to audit the implementation of Royal Commission recommendations
- Legislative amendment to expand the role of IGADF and Commonwealth Ombudsman
- Formal and sustained commitment of the four organisations
- Special powers for the National Commissioner to compel cooperation, support, and evidence from State Governments

## **Funding, Resources and Staffing**

44. To effectively implement the recommendations of the Royal Commission, the National Commissioner and National Office for Defence and Veteran Wellbeing will need to be appropriately funded, resourced, staffed and promoted.
45. RSL Australia suggests that in considering these issues it may be helpful to look at the existing structures and settings of entities that have been charged with implementing recommendations of other Royal Commissions, such as the National Office for Child Safety, or the settings of other National Commissioners such as the Interim National Commissioner for Defence and Veteran Suicide.
46. It may also be helpful to look at the current and projected costs of items of work undertaken by the Auditor-General, IGADF, ANAO and Commonwealth Ombudsman.

## A collaborative approach

47. RSL Australia advocates that implementation of the recommendations of the Royal Commission can best be achieved through the establishment of an implementation body that is independent from government and is enabled to work collaboratively with all stakeholders.
48. The proposed National Commissioner for Defence and Veteran Wellbeing, supported by a National Office for Defence and Veteran Wellbeing and Cross-Organisational Advisory Group, underpinned by the principles of transparency and accountability and working in collaboration with the Auditor-General, ANAO, IGDAF and Commonwealth Ombudsman, is proposed as a potentially effective way forward.
49. RSL Australia stands ready to continue to support the ongoing work of the Royal Commission and to work with government and other stakeholders to implement its recommendations. Our sustained focus is about how we can best work together to help defence members, veterans and their families live healthy, happy and productive lives, during and after their service to our country

## **Attachment 1**

### **Background summary of relevant Government Departments**

#### **The Auditor General**

The [Auditor-General for Australia](#) is an independent officer of the Parliament with responsibility under the Auditor-General Act 1997 for auditing Commonwealth entities and reporting to the Australian Parliament. The Auditor-General is supported by the Australian National Audit Office (ANAO).

Under the *Auditor-General Act 1997*, the Auditor-General's functions include:

- auditing the financial statements of Commonwealth entities, Commonwealth companies and their subsidiaries.
- auditing annual performance statements of Commonwealth entities.
- conducting performance audits, assurance reviews, and audits of the performance measures, of Commonwealth entities and Commonwealth companies and their subsidiaries.
- conducting a performance audit of a Commonwealth partner as described in section 18B of the Act.
- providing other audit services as required by other legislation or allowed under section 20 of the Act; and
- reporting directly to the Parliament on any matter or to a minister on any important matter.

The Auditor-General is assisted by the Australian National Audit Office (ANAO) in delivering against the mandate established by the *Auditor-General Act 1997*. Under the Act, the ANAO consists of the Auditor-General and staff.

#### **The Australian National Audit Office**

The [ANAO](#)'s purpose is to support accountability and transparency in the Australian Government sector through independent reporting to the Parliament, and thereby contribute to improved public sector performance.

The ANAO supports the Auditor-General's conduct of the full range of audits and related services under the Act. These include:

- financial statements audit of Commonwealth entities, and Commonwealth companies and their subsidiaries, including the audit of the Australian Government's consolidated financial statements.
- conducting performance audits and audits of the performance measures of Commonwealth entities and Commonwealth companies and their subsidiaries.
- auditing annual performance statements of Commonwealth entities.
- other assurance reviews, including the Defence major projects report and audits by arrangement.
- reporting directly to the Parliament on any matter, such as information reports; and
- the publication of audit insights and key learnings from audit work.

#### **The Inspector-General of the Australian Defence Force**

The [IGADF](#) is a statutory position, established under section 110B of the *Defence Act 1903*. The IGADF 'independently and impartially monitors and assesses the health and effectiveness of the Australian Defence Force (ADF) military justice system'. The IGADF may conduct inquiries at his or her own initiative, or at the request of an individual, but only into those matters specified in the Defence Act or in the Inspector-General of the Australian Defence Force Regulation 2016 (IGADF Reg).

*However, under section 110C of the Defence Act, the Minister for Defence or the Chief of the Defence Force may direct the IGADF to inquire into or investigate 'a matter concerning the Defence Force'.*



IGADF provides:

- a means for reviewing the performance of the ADF military justice system independent of the ordinary chain of command, including the conduct of internal audits of ADF units, ships and establishments
- a means for conducting inquiries into or to investigate matters concerning the military justice system, including inquiries or investigations into the professional conduct of Service Police
- independent oversight, review and coordination of complaints made under the Redress of Grievance process
- *a means for conducting inquiries into the death of ADF members either in Australia or overseas, where the death appears to have arisen out of, or in the course of, the member's Defence service*
- *an avenue for the Minister or CDF to conduct inquiries into or investigate any matter concerning the ADF*
- advice on matters concerning the military justice system, including making recommendations for improvement
- an avenue to promote military justice values across the ADF
- a means by which failures of military justice may be exposed and examined so that the cause of any injustice may be remedied

## **The Commonwealth Ombudsman**

The [Commonwealth Ombudsman](#) comes under the portfolio of the Attorney General.

The Commonwealth Ombudsman, acting in the role of Defence Force Ombudsman, can be given expanded powers under Part IIA of the *Ombudsman Act 1976* to investigate complaints related to Defence and/or Veteran suicide that are initiated by the National Commissioner.

The Commonwealth Ombudsman can receive and investigate complaints about administrative actions taken by Defence relating to or arising from present or past service including:

- promotion
- demotion
- discharge
- postings
- housing
- allowances or other matters affecting service.

The Office of the Commonwealth Ombudsman, as Defence Force Ombudsman (DFO), is also able to receive reports of serious abuse within the Australian Defence Force (Defence). This provides a confidential mechanism to report serious abuse for those who feel unable, for whatever reason, to access Defence's internal mechanisms.

## **The Minister for Finance and the Commonwealth Superannuation Corporation (CSC)**

Commonwealth Superannuation Corporation looks after super funds designed specifically for Australian Government and Defence Force employees. The ANAO has the authority to conduct audits where it maintains a focus on organisational performance and conformance with relevant requirements such as the Commonwealth finance law and enabling legislation. The most recent audit was published on 17 June 2022.

The CSC comes under the portfolio of the Minister for Finance as a Government appointed Board. The Board consists of an independent Chair and eight other directors. The Minister for Finance (the Minister) chooses four directors in consultation with the Minister for Defence. Of the remaining directors, two are nominated by the President of the Australian Council of Trade Unions (ACTU) and two are nominated by the Chief of the Defence Force. The Minister appoints all directors.