

Personal Submission

The Royal Commission into Defence and Veteran Suicide.

“Reflections: an oversight entity to promote the wellbeing of ADF serving members, veterans and families.”

Introduction

I would like to extend my congratulations to the Royal Commissioners, Nick Kaldas APM (Chair), The Hon James Douglas KC, and Dr Peggy Brown AO for their efforts in conducting the Royal Commission into Defence and Veteran Suicide. I am grateful for the opportunity to have made a previous submission on 18 November 2021, on behalf of my colleagues at GAP Veteran & Legal Services, and to make this personal submission to the Royal Commissioners in response to the proposed new ‘oversight entity’ aimed at promoting the wellbeing of ADF serving members and veterans.

I believe the proposed new ‘oversight entity’ has merit. However, in order for it to effectively fulfill its purpose, it is crucial to address some of the weaknesses in the current ADF arbitration processes that are failing ADF serving members and putting their careers and lives at risk. I would draw your attention to a report I submitted to the Inspector-General of the Australian Defence Force (IGADF) Twenty Year Review on 21 November 2023, which is relevant to that discussion.¹

It is my sincere hope that the Commissioners will shape a new pathway forward to better support the wellbeing of ADF serving members, veterans, and their families. One that will help move the ADF toward a fairer, more just, and mentally robust workplace. I am available any time to contribute to that process or discuss any of the recommendations I have made in this submission.



DR KAY DANES OAM

PO BOX 391 CAPALABA QLD 4157 AUSTRALIA

EMAIL: KAY.DANES@GMAIL.COM

10 DEC 2023

(Human Rights Day)

‘Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world ... Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere.’ Eleanor Roosevelt

¹ Dr Kay Danes OAM (2023), ‘A Conflict Resilient Workplace: Transformative best practice in the Australian Defence Force workplace.’ Retrieved from https://www.defencelivesmatter.com/_files/ugd/c5f951_1a57629faf0242c58317bf269d40d6b4.pdf.

The Consultation Paper asked several questions on four specific topics shown below as outlined at <https://defenceveteransuicide.royalcommission.gov.au/publications/consultation-papers>.

- 3.6 Accountability**
 - 4. Principles of Design**
 - 5. Purpose and functions of a new entity**
 - 6. Governance and powers of the new entity**
-

3.6 Accountability

The sheer size, complexity and power of the Defence portfolio warrant particular oversight arrangements beyond those that are applicable generally to the public sector. Although Defence must have its own accountability systems, an external monitoring body can, through its inquiries and reports, assist the Government to hold Defence's top leadership to account and assist the public to hold the Government to account. The new entity would be a significant part of good public governance.

Consultation Questions

- 1) Do you agree with the reasons outlined for establishing a new entity? If not, why not?
- 2) Are there any additional reasons for establishing a new entity?
- 3) Taking account of all factors, should a new entity be recommended by the Royal Commission and established?

My Response

In principle, the rationale for establishing an oversight body by the Royal Commission is valid. If established, this body should have a clear purpose, scope, and authority, serving as a catalyst for continuous improvement. I agree that Defence must have its own autonomy and accountability systems in the administration of its workforce, however, the increasing number of unresolved professional grievances in the workplace indicates that the lack of an effective corrective action and reparation policy is impacting ADF serving members, veterans, and families.

Throughout my years of service to the ADF community, I have consistently advocated for moving beyond ineffective bureaucratic grievance procedures and embracing alternative dispute resolution practices based on established Human Resource Management best practices.² By doing so, the ADF can strive towards a fair, just, and mentally resilient workplace, and should, since it is widely accepted within the ADF community that the current system of arbitration often leads to more grievances instead of resolutions. As the research suggestions, internal administrative inquiries and existing external monitoring bodies are failing to remedy injustices that ADF serving members' experience when raising a complaint in the workplace.³

² Danes, Kay (2021) 'Pleading Positive Reform: An analysis of suicide risk, self-harm and reputational peril impacting serving ADF members.' Retrieved from https://www.defencelivesmatter.com/_files/ugd/c5f951_86bb5ca6510c428a9f6d7392513adc35.pdf.

³ Ben Wadham and Deborah Morris, (2019) Enough inquiries that go nowhere – it's time for a royal commission into veteran suicide. The Conversation. <http://theconversation.com/enough-inquiries-that-go-nowhere-its-time-fora-royal-commission-into-veteran-suicide-119599>.

Government and stakeholders must reform the framework for ADF administrative inquiries because these systems are, more often than not, resulting in the escalation of complaints to external arbitration processes (i.e., Defence Ombudsman/IGADF), and increasingly, civil legal redress claims. If ADF serving members are unable to access restorative justice for the harm they experience in their workplaces as a result of a complaint, then it is probable that the new 'oversight entity' will be confined to merely writing reports and providing recommendations that will have no impact.

4. Principles of design

Any new public agency needs to be designed with care. Design principles can help. The Royal Commission suggests that the following principles could inform the design of a new entity.

- a) The entity's design and governance must be informed by Defence members, veterans, family members and others with lived experience and expertise.
- b) The entity must be strong and independent, including of the ADF and DVA.
- c) The framework of the entity should be designed before the end of the Royal Commission but have regard to, and be consistent with, the reports of the Royal Commission and to the institutional context (i.e., what other relevant bodies are doing).
- d) Any new arrangements should not absolve the ADF and other relevant authorities of their responsibility and accountability for Defence members' and veterans' wellbeing.
- e) The entity and its activities must operate in a trauma-informed way.

Consultation questions

- 1) Do you agree with the suggested principles listed above? If not, why not?
- 2) Should any other principles be added to the list?

My Response

In principle, I agree with the proposed framework but there are some issues that need to be clarified.

The Royal Commission has focused on 'Defence' and 'Veterans' as two distinct demographics. But many would agree that the focus has weighed considerably more on veterans and family issues because they are more accessible and able to speak out without fear of reprisal. Failing to consider issues that impact ADF serving members, will hinder efforts to realistically promote their wellbeing as they carry unresolved grievances into their post-service life. Resolving professional workplace grievances is crucial for reducing legal claims, suicide risk, and self-harm, and mitigating the impact on serving members experiencing moral injury.⁴ Therefore, it is essential for all of us to adopt a new whole-of-life support system that focuses on minimising and preventing inequities related to those harmful incidents that occur during an ADF member's service. Any action must include reforming policy inequities that hinder the administrative system from improving ADF best practices of which I have extensively written about.⁵

⁴ Michael D. Matthews. 'Moral Injury: Toxic leadership, maleficent organisations, and psychological distress.' *Psychology Today*. March 10, 2018. <https://www.psychologytoday.com/us/blog/head-strong/201803/moral-injury>; and Dominic Hilbrink (2023), 'Moral Injury', *Fortem Australia*. Retrieved from <https://fortemaustralia.org.au/2023/07/28/moral-injury/>.

⁵ Danes, Kay (2021) 'Pleading Positive Reform: An analysis of suicide risk, self-harm and reputational peril impacting serving ADF members.' Retrieved from https://www.defencelivesmatter.com/_files/ugd/c5f951_86bb5ca6510c428a9f6d7392513adc35.pdf.

There is an obvious need to have some qualification around the term 'expertise' of those called upon to act on any proposed Advisory Council. Most individuals who consulted on issues relating to ADF serving members are the ADF leadership. The concept of drawing from a general consensus to address internal failures is foreign to the ADF because it is not a democracy where the views of everyone are sought.

The other demographic typically consulted are the veterans and families. It may be that many in this cohort do not have recent military service, or in-depth knowledge or exposure to the systemic issues impacting ADF serving members in the modern workplace. Any Advisory Council should have a solid understanding of ADF legislative frameworks, command structures, Defence administrative and disciplinary policies, as well as experience and qualification in arbitration processes to effectively resolve workplace disputes in a military environment. This expertise is quite different to assisting veterans with DVA entitlements, connecting with pension advocates and rehabilitation services. Similarly, different to responding to the needs of an ADF/Veteran family (i.e., supporting inquiries about housing, education, spouse employment, access to facilities, childcare etc...)

Engaging stakeholders who have limited knowledge of ADF doctrine or whose experiences have been primarily within a veteran-centric context may lead to significant failures in providing solutions for ADF serving members and their families. This can result in unresolved grievances that individuals carry into the Veteran community, further impacting everyone.

In principle, there is likely to be agreement with the Royal Commission's recommendation that any new 'oversight entity' must be strong and independent. However, if this oversight body is not involved in reforming policies, safeguarding them, or challenging flawed administrative decisions resulting from the professional grievance system, it becomes difficult for anyone to believe that such a body would effectively fulfill its role.⁶ Different oversight bodies have different oversight functions, and some oversight bodies play a more active role in guiding management than others. The independence of any new 'oversight entity' would be undermined if it is unable to enact safety net processes and enforce accountability. Existing external oversight bodies, such as the Defence Ombudsman and the IGADF, are already mandated to provide independent oversight of the ADF. A broadly held view, however, maintains that these external arbitration processes fail because there are no corrective action or reparation policies to effectively 'triage' a detriment to the point where:

- all mistakes are admitted and put right;
- a sincere and meaningful apology is offered, and
- the management outcomes restore the complainant to the position/status they would have been in if the defective administration had not occurred.

In order to ensure the wellbeing of ADF serving members and veterans, it is crucial for any new 'oversight entity' to embrace trauma-informed principles that promote institutional accountability and transparency which are key universal features of the policy statements and programs of many organisations. This means establishing a comprehensive and robust framework that addresses the unique needs and challenges faced by ADF serving personnel. Some examples of trauma-informed foundational principles include:

⁶ Dr Kay Danes OAM (2023), 'A Conflict Resilient Workplace: Transformative best practice in the Australian Defence Force workplace.' Retrieved from https://www.defencelivesmatter.com/_files/ugd/c5f951_1a57629faf0242c58317bf269d40d6b4.pdf.

- **Safety:** Interpersonal and environmental settings should promote a sense of physical, emotional, cultural, and reputational safety.
- **Trustworthiness:** All organisational operations and decisions are conducted with transparency with the goal of building and maintaining trust.
- **Choice:** Ensure that individuals (in this case, ADF members) are able to access alternative dispute resolutions processes.
- **Collaboration:** Promote the reduction of power imbalances by shifting to 'collaborative' ways of working where the complainant is part of the decision-making processes that affects them.
- **Empowerment:** Centre the experiences of the complainant in all aspects of the complaint handling processes and implement corrective action and reparations.⁷

A trauma-informed approach also require a safety net to ensure:

- Due diligence takes place before key decisions are made.
- Policies and strategies are being implemented as intended.
- Key risks are identified, monitored, and mitigated.
- Business processes and systems are working well.
- Expected results are being achieved.
- Value for money is obtained.
- Activities comply with policies, laws, regulations, and ethical standards.
- Developing areas of concern are being dealt with.
- Assets (ADF member) are being safeguarded.
- Continuous improvement is taking place.⁸

The ADF already has several policies and procedures in place to promote diversity and inclusion across various aspects such as culture, gender, sexuality, ethnicity, religion, age, ability, and socioeconomic positions. However, it is important to recognise that without implementing corrective action and reparation policies to address professional grievances in the workplace, the effectiveness of these policies may be limited. Therefore, it is crucial to prioritise the voices and needs of those who have experienced trauma in the workplace and ensure their inclusion when crafting policies and making recommendations. Creating safe and supportive workplaces is essential for the mental health and wellbeing of all individuals.

⁷ Jill Levenson (2017), 'Trauma-Informed Social Work Practice', *Social Work*, Volume 62, Issue 2, April 2017, Pages 105–113, Retrieved from <https://doi.org/10.1093/sw/swx001>.

⁸ Canadian Audit and Accountability Foundation (2013), 'Practice Guide to Auditing Oversight,' ISBN: 978-1-926507-03-3. Page 8, Retrieved from <https://www.caaf-fcar.ca/images/pdfs/practice-guides/Practice-Guide-to-Auditing-Oversight.pdf>.

5. Purpose and functions of a new entity

In proposing the establishment of a new entity, it is important to consider its ultimate purpose and the kind of work it would do.

5.1 Purpose of a new entity

To contribute to improving the wellbeing of Defence members and veterans and preventing suicide and suicidality—from the time of their recruitment into the ADF and for the rest of their lives.

My Response

In principle, I agree with the purpose as stated at 5.1 Purpose of a new entity.

5.2 Functions of a new entity

In practice, the functions of a new entity could encompass a range of activities, including:

- a) monitoring and reporting on the extent of the adoption, implementation and success of the Royal Commission's recommendations and selected recommendations made by other inquiries (past, present and future).
- b) analysing, and recommending improvements to, Defence, DVA and other agencies' policies, programs, systems, and practices that affect Defence members' and veterans' wellbeing.
- c) examining and reporting on the cultures of the ADF, DVA and other relevant agencies.
- d) monitoring and reporting on:
 - i. suicide data and trends,
 - ii. wellbeing data and trends,
 - iii. information and data about factors that contribute to suicide and suicidality,
 - iv. information and data about factors that contribute to wellbeing,
 - v. evolving understanding of wellbeing, suicide, and suicidality (through literature reviews, maintaining contact with relevant institutions and otherwise),
 - vi. becoming a repository of data and research outcomes relevant to Defence and veteran wellbeing (including suicide and suicidality prevention),
 - vii. conducting and commissioning research relevant to Defence and veteran wellbeing, suicide and suicidality and contributing to the formulation of the research priorities of relevant institutions,
 - viii. investigating systemic or other issues affecting Defence and veteran wellbeing.
- e) engaging with relevant stakeholders, through various means, including roundtables, workshops, and other forums.

My Response

The functions of the new 'oversight entity' should have executive powers listed under a), b), d) and e). I have reservations concerning c) on the basis that expanding the function of an Advisory Council to 'examine and report on the cultures of the ADF, DVA and other relevant agencies' could be seen as too ambitious an undertaking and create an unnecessary layer of bureaucracy. However, it is certainly a topic that should be further discussed and explored.

Introducing a new 'oversight entity' could ensure the ADF prioritise a duty of care towards its people by actively engaging service user input, consultation, mediation, and remedy. This approach is preferable to relying on an ineffective, antiquated, inquisitorial system of justice to control the outcomes of administrative inquiries into ADF professional grievances.

While it is not proposed that the new 'oversight entity' focus on individual concerns and complaints, arguably it should have some tangible autonomy to assist in mediating professional grievance resolutions. How else can there be any transformation in the current arbitration process to ensure workplaces are protected environments for everyone?

ADF serving members should be able to voice their concerns and seek resolution without fear of retaliation in their workplaces. A policy should deliver on its claims by focusing on resolving issues as quickly as possible and at the lowest possible level.⁹ An arbitration process should have the authority to rectify flawed decisions made by the ADF, ensuring accountability. Only when these issues are addressed will we see meaningful improvements in the care and well-being of ADF serving members and veterans.

American Sociologist, Diane Vaughan, spent her career studying organisations where deviations from rules and practices become the norm—often with devastating consequences. Vaughan coined the term 'normalisation of deviance' as 'the gradual process through which unacceptable practice or standards become acceptable. As the deviant behaviour is repeated without catastrophic results, it becomes the social norm for an organisation.'¹⁰ The fact that no negative consequence result from inaction, leads to the deviance becoming normalised within an organisation's culture.

Arguably, this is precisely the problem that many ADF members are confronted with in the workplace, reinforced by the fact that the ADF consistently fails to apply appropriate remedies for workplace grievances.

While it is unlikely that the ADF would intentionally abuse its employees, it is possible that over time, certain practices, or standards that are considered unacceptable have gradually become accepted. Certain practices by some may have crossed the line of acceptability. Hence, any new 'oversight entity' must have the authority to investigate individual concerns and complaints to ensure that ADF serving members are provided access to:

- non-adversarial-win-win solutions and avoid costly litigation,
- more stable outcomes based on fair and equitable decisions,

⁹Australian Government (2023), 'Complaints and Resolution', Retrieved from <https://www.defence.gov.au/about/complaints-incident-reporting/complaints-resolution> .

¹⁰ Staff Writers (15 May 2017), 'Safety in Mind: Normalisation of deviance. *Flight Safety Australia*. Retrieved from <https://www.flightsafetyaustralia.com/2017/05/safety-in-mind-normalisation-of-deviance/>.

- more responsive support mechanisms at the point of initial exposure to a workplace detriment, to mitigate harm before matters are escalated through the chain of command,
- a policy that actually does what it claims to do—focus on resolving the issue(s) at the earliest opportunity and at the lowest appropriate level, and
- access an arbitration process that has executive power to remedy flawed decisions made by the ADF, and to ensure accountability.

As mentioned in my previous submission to the IGADF Twenty Year Review, there will always be a need to involve the chain of command and the IGADF in some of the more complex matters, as required by disciplinary procedures (e.g., Defence Force Discipline Act 1982).¹¹ The proposal of Alternative Dispute Resolution does not aim to replace those formal processes. It simply suggests an alternative approach to managing professional grievances due to the current approach's lack of effectiveness.

A key takeaway point from Diana Vaughan's assertions is that the best solution against the normalisation of deviance is to have clear standards and to reward whistleblowers. Additionally, it is important to foster a team-based culture where individuals feel responsible for their colleagues and are discouraged from breaking the rules. This differs greatly from the current philosophy that governs the ADF workplace. It cannot be emphasised enough how crucial it is to have a top-down approach to safety and to strictly adhere to directives and policies. If ADF serving members witness other members breaking rules or not upholding ADF policies, they may perceive this behaviour as normal within the ADF's culture, especially if that behaviour goes unchecked. It is far easier to prevent the normalisation of deviance than to correct it.¹² To ensure ADF workplaces are safe, policy reforms are needed to provide ADF members with realistic opportunities to resolve professional workplace grievances. These policy reforms should start with ADF administrative inquiries where most of the harm is done to ADF serving members.¹³

6. Governance and powers of the new entity

Stated in the proposed objectives, the Royal Commissioners posit the following: When considering the governance and powers of a new 'oversight entity,' it's important to consider its role in inquiring into and reporting on government agencies. With the functions described above, the new entity would be required to consider the actions of at least two major Commonwealth departments, ADF and DVA, as well as others. It may also focus on the role of State and Territory governments in providing assistance to veterans and their families.

To effectively deliver its purpose and perform its functions, the Royal Commission considers that the 'oversight entity' must have independence and also access to the information it needs to make meaningful recommendations and provide strong, ongoing oversight. It is equally critical that the

¹¹ Dr Kay Danes OAM (2023), 'A Conflict Resilient Workplace: Transformative best practice in the Australian Defence Force workplace.' Retrieved from https://www.defencelivesmatter.com/_files/ugd/c5f951_1a57629faf0242c58317bf269d40d6b4.pdf.

¹² Staff Writers (15 May 2017), 'Safety in Mind: Normalisation of deviance. *Flight Safety Australia*. Retrieved from <https://www.flightsafetyaustralia.com/2017/05/safety-in-mind-normalisation-of-deviance/>.

¹³ Ben Wadham and Deborah Morris, (2019) Enough inquiries that go nowhere – it's time for a royal commission into veteran suicide. *The Conversation*. <http://theconversation.com/enough-inquiries-that-go-nowhere-its-time-fora-royal-commission-into-veteran-suicide-119599>.

entity continue to be informed by the voices of Defence members, veterans, and their families so that the entity's recommendations achieve the fundamental changes required to support the wellbeing of Defence members and veterans. To deliver this, it is proposed that the new entity could:

- a) be headed by its own official / head (e.g. a commissioner)
- b) be free of direction by Ministers or others
- c) have an Advisory Council so that it is continually informed by experts including people with lived experience
- d) have powers to enable it to deliver its functions, such as powers:
 - i. to hold hearings (including summoning witnesses), both public and private
 - ii. to issue notices requiring the production of documents and the giving of information
 - iii. to be regularly updated with information from Defence, DVA and others (that is, should it be able to enter into arrangements that give it access to databases or to receive organised data regularly supplied, without having to issue notice after notice)
 - iv. to enter into joint investigations or inquiries with other bodies (e.g. the Australian Federal Police, the National Anti-Corruption Commission, the Human Rights Commission, and coronial offices).
- e) have its own budgetary allocation
- f) be required to report annually to Parliament on its work and be able to report to Parliament on specific matters, with recommendations, when it considers such a report appropriate
- g) have power to report, publicly or confidentially, with recommendations, to Ministers and other public officials (as appropriate to the circumstances of the subject and the purpose of the new entity)
- h) not be subject to public interest immunity and other objections, immunities, and privileges.

Consultation questions

- 1) Are the proposed governance arrangements and powers appropriate for the new entity?
- 2) If an Advisory Council is supported, what kinds of people should serve on it (e.g. next of kin of Defence members and veterans who have died by suicide, serving members, veterans, and their families)?
- 3) What else should be said, in legislation or otherwise, about the design and operation of a new entity?
- 4) Are there other considerations for how a new entity might operate?

My Response

In general, I agree with the proposed framework regarding governance and the powers of the new 'oversight entity.' But in respect to an Advisory Council being informed by experts, including people with lived experiences, I have some reservations. Namely, concerning the selection process of the Advisory Council and especially with the selection of the same individuals who currently serve on multiple Veteran advisory councils and boards, who have limited knowledge of ADF doctrine, or whose lived experiences have been primarily within a veteran-centric context, and who are typically residents of Canberra. To the latter, geographical location should not be a barrier to serving on the Advisory Council which fuels the perception of nepotism, which could undermine the principles of administrative independence.

Additionally, while it is important to acknowledge lived experiences, it is not enough for individuals to rely solely on lived experiences that have been primarily within a veteran-centric context. Individuals should also possess a solid understanding of ADF doctrine, and ideally, have personal experience or exposure to ADF workplace conflicts and administrative inquiries that have affected ADF serving members. Resolving workplace disputes in the ADF can be an overly complex and intricate process which is probably why most people avoid the issue. The ADF's hierarchical structure, which is designed to maintain discipline and command authority, can present unique challenges when it comes to effectively addressing and resolving workplace conflicts. It involves a careful balance of upholding the principles of chain of command while ensuring fair and impartial adjudication of disputes. Given the number of lives already lost that cannot be attributed to combat, it makes sense to look more closely at the internal mechanisms of people management.

The powers of Advisory Council should have the autonomy to assist in the development of new *alternative dispute resolution* practices for ADF serving members to create a more robust process. This action would help:

- Resolve professional grievances at the unit level to avoid escalation and detriment;
- Reduce the likelihood of external media scrutiny or litigation;
- Improve safety and wellbeing in the ADF workplace;
- Demonstrate better management of grievances through genuine mediation;
- Reduce the risk of suicide-risk and self-harm, and
- Reduce the risk of involuntary separation from service which can be traumatic.

The range of activities, proposed governance, and powers of the Advisory Council should incorporate professional Human Resource (HR) Management practices. This is an area that the ADF has begun to embrace with the suggestion of implementing an *end-to-end people system*. This specific language is coined from HR terminology where, as the name indicates, is the process that accounts for all the stages of the employee lifecycle, from one end to the other. It covers a range of processes and solutions that should enable and enhance employee experiences, development, personnel, and workforce management. Or, in simple terms: Attract, Hire, Develop and Advance.¹⁴

In the past, many have argued that HR is undervalued in the ADF, but HR should serve as the fundamental starting point for driving a transformative cultural shift within the ADF. HR managers understand the need for proactive approaches that reduce conflict and foster a harmonious workplace environment.

¹⁴ FourVision (2 Dec 2021), 'What is an end-to-end HR process?' Retrieved from <https://www.fourvision.com/knowledge-item/what-is-an-end-to-end-hr-process/>.

By genuinely listening to employees and demonstrating a sincere intention to support and resolve their concerns, HR managers greatly enhance the overall sense of inclusion and belonging experienced by the workforce. The ADF has recently experienced poor retention and recruitment rates and has been hit hard by many confronting revelations that have been revealed as a result of the intense scrutiny of the Royal Commission into Defence and Veteran Suicide. It is now becoming increasingly clear that HR in the ADF needs to be recognised as one of its most important departments. This point of view is exemplified by the recent appointment of Deputy Chief of Army Major General Natasha Fox as the inaugural Chief of Personnel, tasked to achieve a more integrated ADF with an end-to-end people system.¹⁵

Creating a dedicated or specialised HR Management Corps is a wise (governance) business decision, especially considering that the ADF's human resources are one of its greatest assets. There is much anticipation for the ADF to move closer to establishing a dedicated HR Corps. One that is supported by suitably qualified, skilled, and experienced staff in people management. This would be a departure from the current practice of filling positions based solely on rank and posting cycles.

The significance of taking this type of approach cannot be overstated, as it directly influences the effectiveness and fairness of grievance resolution processes currently failing ADF serving members. People who feel truly welcomed and valued are more likely to come forward to serve. Those currently in service are more likely to have confidence in the system, with the knowledge that their concerns will be addressed in a just and impartial manner. So, the new 'oversight entity' could have an impact beyond its initial expectations. It could help the ADF evolve an effective HR Corps to align with best practices, to ensure ADF serving members have access to fair processes and a new alternative dispute resolution option.

It is important to note that the current Complaints Resolution Agency (CRA) only investigates matters referred by ADF members if they have already been addressed by the chain of command. However, by that time, irreparable damage may have already been done to the ADF member.

There would be support for the Advisory Council to have its own budgetary allocation but there is also a risk that relying on government funding could compromise the Council's administrative independence to a degree. However, financial constraints could also hinder the effectiveness of the Advisory Council, and lead to its eventual demise. It is important to view independence as a means to an end, rather than an end in itself. External parties may still find ways to undermine the Advisory Council's legitimacy, authority/recommendations, and autonomy.

Alternatively, if the proposed new 'oversight entity' were created as a government department or an extension of the ADF's current personnel management system, the Advisory Council could become involved in creating/providing oversight to a non-uniformed Alternative Dispute Resolution (ADR) Practitioner Service (similar to a HR Corps) consisting of neutral third-party mediators who have the necessary experience, accreditation, and skills to resolve disputes in a fair and impartial manner.¹⁶ Ideally, these practitioners would be independent and not serving members of the ADF. Australian Public Service appointments and other qualified professionals from the corporate sector could also be considered for these roles.

¹⁵ Department of Defence (25 May 2023), New Role for Deputy Chief of Army. Retrieved from <https://www.defence.gov.au/news-events/news/2023-05-25/new-role-deputy-chief-army>.

¹⁶ This proposed model is different to the one currently in place: the Directorate of Soldier Career Management and Directorate of Officer Career Management deal with career management in terms of promotions, transfers, postings, transitions etc... They do not manage complaints and resolutions within the ADF.

This model could offer a fresh, transformative, non-adjudicatory approach to reinforce the ADF's commitment to fair, respectful conflict resolution for ADF serving members and veterans.¹⁷ Importantly, a new model could be grounded in four key tenets, which maintain:

1. The best decision makers in a dispute are the people directly involved,
2. To effectively resolve a dispute, people need to hear and understand each other,
3. Disputes are best resolved on the basis of the people's interest and needs, and
4. Disputes are best resolved at the earliest possible time and at the lowest possible level.¹⁸

In conclusion, for any new 'oversight entity' to function in the best interests of the ADF serving member it must be able to promote good governance in compliance with a robust accountability framework. For example:

Plan Functions	Determine how and when oversight actions are required and applied.
Do Functions	Call into question. Make recommendations.
Check Functions	Monitor and review recommendations and implementation.
Act Functions	Take actions to correct an observed deficiency (i.e.: amending policy failings/flawed decisions etc...), facilitating continuous improvement, communicating key strategies to improve best practice, implement an audit methodology to assess whether there are indications that oversight has been effective against key performance indicators. Mediate, implement corrective action, establish reparation policy.

The ADF places a great deal of emphasis on leadership, integrity, courage, respect, and accountability as core values and behaviours.¹⁹ These principles serve as the foundation for the ADF's expectations of all its members. Upholding these standards is essential for maintaining the ADF's reputation and ensuring its effectiveness in fulfilling its mission. However, many contemporary workplaces have developed new modern employee value propositions that go beyond these well-known values to include *stewardship*.

Stewardship is a term that is rarely used in the context of the ADF, but it plays a crucial role in responsible management and resource allocation, on behalf of the public. At its core, stewardship recognises that leadership is a temporary role that is surpassed by the lifespan of an organisation and focuses on promoting the well-being of each individual in the work environment.²⁰ With these concepts in mind, the recommendations of the Royal Commissioners provide a timely opportunity to explore the ADF's employee value propositions by establishing stewardship as a core value. This would serve to improve the management of the ADF's most valuable resources: its people.²¹

¹⁷ The accreditation process to becoming an *ADR Practitioner* is a standard practice across Australia where applicants meet threshold training, education, and specific assessment requirements as part of the National Mediator Accreditation System.

¹⁸ Victorian Public Sector Commission (2022), 'Alternative Dispute Resolution,' Chapter 2.2, Retrieved from <https://vpvc.vic.gov.au/workforce-capability-leadership-and-management/managing-negative-behaviours/developing-conflict-resilient-workplaces/guide-2-the-conflict-resilient-workplace/#heading3>.

¹⁹ Department of Defence (2023), 'Core values and behaviours,' Retrieved from <https://www.defence.gov.au/about/who-we-are/values-behaviours>.

²⁰ Aaron Churchill, Brian Barney, Alexa Hazel, Debra Kelsall, Sandy Mouch, Dominique Verdun (2016), 'What is Stewardship, and should all great leaders practice it?', *New York Times*. Retrieved from <https://nytimesineducation.com/spotlight/what-is-stewardship-and-should-all-great-leaders-practice-it/>.

²¹ Canadian Audit and Accountability Foundation (2013), 'Practice Guide to Auditing Oversight,' ISBN: 978-1-926507-03-3. Page 11, Retrieved from <https://www.caaf-fcar.ca/images/pdfs/practice-guides/Practice-Guide-to-Auditing-Oversight.pdf>.

Specifically, it would create the potential for increased competitiveness in the job market which would benefit current recruitment strategies, investing in specific talent pools (i.e., HR managers). It would also foster a positive culture, prioritise employee well-being, provide meaningful roles, and offer professional development opportunities. These measures would surely benefit strategies to counter some of the more dire challenges the ADF is facing with its rising personnel retention crisis.²²

While the Advisory Council may not be able to resolve all workplace issues impacting ADF serving members, many argue that they should have access to employment protections similar to other Australian employees. Perhaps the antiquated servant of the Crown doctrine needs to reflect a more contemporary legislative policy?²³ Especially if the Chief of the Defence Force General Angus Campbell, like his predecessors, envisions the ADF as 'an employer of choice' and one that seeks to 'attract the best possible talent from all backgrounds, regions and walks of life' to attain that standard.²⁴

It appears that some of the next generation ADF leaders have understood the nuances of these concepts. It would be unjust to burden the Australian taxpayer with financial detriments that could be resolved with a little more diligence, empathy, and strategic foresight. Lieutenant General Natasha Fox, the new Australian Army Chief of Personnel, recently affirmed 'We can't sit back and think our organisation doesn't need to change. It needs to keep evolving.'²⁵

Indeed, if the ADF does not adapt [evolve], retention bonuses, benefit schemes, and differentiated packages will all lose their significance. All of these issues add to the complexities of securing tangible, transformative action, hence why so many previous inquiries relevant to suicide prevention among 'Defence' and 'Veterans' have failed. The proposed new 'oversight entity' and Advisory Council will indeed need to adopt a long-term focus if it intends to be the catalyst for change.

²² Melissa George (2023), 'Retention in the Australian Defence Force.' (20 June 2023). Retrieved from https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/FlagPost/2023/June/ADF-Retention.

²³ Dr Kay Danes (04 Jun 2016) 'The moral ethic of employment rights.' *CLARion*. Retrieved from <https://www.cla.asn.au/News/adf-side-steps-employment-rights/>.

²⁴ General Angus Campbell (12 Apr 2023), *Lowry Institute*. (Speech). Retrieved from <https://www.lowryinstitute.org/publications/address-general-angus-campbell-chief-defence-force>.

²⁵ Defence Connect (11 Aug 2023), 'Competitiveness in employment market a priority, says LTGEN Fox.' Retrieved from <https://www.defenceconnect.com.au/land/12559-competitiveness-in-employment-market-a-priority-says-lt-general-fox>.