

**DRAFT OF SECOND SUBMISSION  
TO THE ROYAL COMMISSION ON DEFENCE AND VETERAN SUICIDES  
By ex-Major A K Warren**

1. My concern is this RC may not be able to get past the subterfuge of Defence in its attempt to identify causes of Defence and veteran suicides, attempted suicides and suicidal thoughts (i.e. service suicides). The RC's interim report, after 12 months of examination of over 1,600 submissions, has not yet identified core causes for these service suicides. I can guarantee this RC that Defence's malignity is far worse than just a 'sustained lack of curiosity and action' in service suicide prevention.
2. In my first submission of 7 February, 2022 to this RC, I gave an outline of my facts and reasons why the general's failures in leadership is a chronic causal factor in service suicides, especially amongst veterans. The intensity of their past and present maladministration, abuse of power and improbity is yet to be recognised and understood. I firmly believe this RC needs to focus on Defence's higher leadership failures and duplicity if its final findings are to be adequate and not just a publication of already known knowns.
3. The current cant from the generals is, "The standard you walk past is the standard you accept." This can be dismissed as a hypocritical and callous feigner. I would make the blunt point that command responsibility is a legal term in so far as even if a commander didn't make the wrongful decision or order but becomes aware and then fails to properly correct, then he/she is responsible. Worse still, cover ups are more damaging than the initial wrongdoing. Such wrongdoings are systemic suicide risk factors that traumatise and provoke victims.
4. It would appear that the RC's main findings to date are that long delays in processing veterans' claims and a decline in their mental and physical health care services cause heightened stress and trauma to them. As acknowledged by the RC, these problems were well known long before this RC was established. Defence abuses surrounding members involuntarily discharged from the services is also a trauma factor that has been long known about, as are obstructions and delays to FoI Act access to personal history records.

5. In my opinion MAJGEN L Roberts-Smith's witness advice to the RC in response to Commissioner Peggy Brown's question to him is an inadequate solution to the issues raised. She asked him how some of the issues raised could be rectified. His answer offered a partial potential remedy to an issue based on the idea of proposed legislative changes to strengthen a 'reporting system through the Defence Force Ombudsman' (DFO). His idea might assist in expediting responses from Defence, if at some time in the future adequate changes were made to DFO law. Expediting Defence's responses to the DFO does not enhance the honesty or competency of these responses. Nor does it address veterans' main concern about just how effective is the DFO in examining their grievances **even if the DFO decides to examine them at all**. Significant trauma is caused to service personal and veterans because their grievances are not adequately resolved in the DFO system.
6. To give substance to my submission's above point, I rang the Commonwealth Ombudsman's office on 2 August 2022 and spoke to the DFO sub branch. I sought access to its statistics on grievance cases that were finalised to the satisfaction of complainants. On 22<sup>nd</sup> August the DFO posted to me two sections of the Ombudsman's 2020-21 Annual Report plus a reference to its website. It also advised me if I wished to obtain "more specific or granular information....with respect to contacts received or complaints lodged, outside that published in the Annual Reports", I must lodge a FoI Act request to that Office.
7. This RC really needs to establish just how effective the DFO is at resolving veteran's grievances that finalise with a satisfactory result to the complainant. I assume the Commonwealth Ombudsman's Office (DFO section) would provide this 'granular' data to the RC without the need for a FoI request. My guess is that there isn't too many cases in these groups and the more serious the complaint the less likely it is to be resolved or accepted for investigation. This could be a trauma factor risk in service suicides that ought to be identified.
8. I suspect my phone 'contact' to the DFO on 2 August 2022 will feature in its Annual Report 2022-23 as a successful outcome achieved within 3 weeks to the satisfaction of the applicant (me). Obviously, I did not get the information that I sought though I did accept the decision made by the DFO and I thanked it for the effort made. My 'contact' is now processed by the DFO as 'successfully closed' and would be only reactivated if I submitted an FOI request.

9. MAJGEN Roberts-Smith's suggested solution does not bring the generals to higher levels of responsibility and accountability for their serious and systemic abuses of power and corruption as detailed and evidenced in my case to date. His solution fails to address the limitations of an ombudsman's power and resources to rectify wrongs perpetrated by Defence. The DFO has no 'bark and bite' powers to investigate improbity and maladministration by the generals. A DFO's oversight or own-motion powers are inadequate to penetrate determined cover-ups which are serious risk factors in service suicides.
10. I am not criticising MAJGEN Roberts-Smith. I agree with his recommendations but wish to stress they are of secondary importance. He gave important input to the 2004 Senate (FA, D&T) Inquiry into the Effectiveness of Australia's Military Justice System (MJS). Other members of the legal professions made submissions to that inquiry that highlighted the untoward delays in Defence's handling of Redress of Grievances (RofG) applications and their on forwarding to the DFO if unresolved within the chain of command or within specified time. That senate inquiry is now 18 years old and those submissions stressed that the RofG delay problems pre-dated 2004 by many years. It is unthinkable that MAJGEN Roberts-Smith has had to raise the same issues in 2022. Surely this is evidential data of the generals' dishonesty, insincerity, omissions, laxity and/or incompetence. The generals' handling of my FoI Act applications was corrupt, despite Defence FoI staff being good and helped as best they could.
11. I had good knowledge and understanding of how RofG law was meant to function within the Australian Defence Force (ADF). In 1979, with rank major, I was the administrative officer on a regimental headquarters. I was responsible for and did process RofG (then Rof Wrongs) applications.
12. In 1979, I actually had cause to submit a RofW myself. It related to the termination of my Living Out Allowance (LOA) by the Victorian Deputy Regional Secretary (DRS). The case is well documented. The brigadier commander of Victoria obfuscated and delayed his handling of my RofW application after it was initially supported by my commanding officer. I decided to seek legal advice from an army reserve legal officer. Within a **couple** of minutes of reading my RofW application plus the relevant military regulations, he was appalled and advised me that I should consider taking the matter out of the hands of the military chain of command and put it before a civil court. I declined to do so and consequently senior officers continued to subvert the RofW laws and I lost my LOA.

13. In 1993 the Administrative Appeals Tribunal (AAT) reviewed army's handling of my 1979 LOA RofW case documents. Within minutes Senior Member M D Allen, RFO declared, "This is disgusting." Counsel representing Army, Rhonda Henderson, SC jumped to her feet stating, "I submit that those involved at the time did not know that they were doing anything wrong." Allen responded, "Sit down Counsel, the Tribunal has already made up its mind and does not need to hear from Defence."
14. So, why is it that two separate reserve army legal officers, one in 1979 and the other in 1993 could so quickly identify maladministration and abuse of power that the generals and their legal officers were too incompetent or dishonest to see? What or who still controls this chronic failure in military leadership that persistently cannot correct blatant and systemic failures in military justice that can morph into service suicide risk factors?
15. Transcripts of 6 August 2004, Senate Inquiry into the Effectiveness of the Military Justice System are informative. On 2<sup>nd</sup> August LTGEN Peter Cosgrove accused the Senate Inquiry Committee of questioning the honesty and integrity of the ADF commanders. On 6 August Senator Johnson stated it was he who had voiced this position on 2<sup>nd</sup> August that senior officers set out to subvert military justice processes. He read back to LTGEN Cosgrove what he had said on 2<sup>nd</sup> August 2004. In part it reads:
- "When someone is to be railroaded, the process as you have identified will be pristine. There will be nothing wrong with it that you can point to, because this is the way we train our Defence personnel – they are set a task and they perform it magnificently. So an inquiry designed to end a career – an inquiry to remove a problem, be it operational or political, - will not have a hole in it. It will not be something that you can deal with."*
16. LTGEN Cosgrove stated that he was astounded at such a claim and it was outrageous. He claimed that he was vigilant against such conduct..."*I would be right onto it and so would every other right minded person.*" When Cosgrove made his comments both he and Defence were aware of my own submission to that inquiry. In all probability Senator Johnston was referring to my forced resignation in disgrace from army as someone being 'railroaded' – 'designed to end a career'. And LTGEN Cosgrove ought to have known this to be so.
17. Senator Johnston continued his exchange with LTGEN Cosgrove. He said, "*Seriously, what I want you to say, as you have said – Look, there are problems. We have very professional, well-trained people who, when they go about the business of fixing someone up, as human nature would have it, do a good job.*"

18. LTGEN Cosgrove replied, *“Every right minded person would reject that.”* The problem with his reply is that the generals before and after him had had every opportunity to come clean about how the generals set up my constructive dismissal from army in 1981.
19. The DFO system was abused in the early stages of my trauma case. In 1981 the then Minister for Defence, Sir James Killen QC, fabricated a DFO investigation report into the circumstances of my constructive dismissal from army. His spurious report found that I was grossly incompetent and unprofessional, warranting dishonourable termination of appointment by the Governor-General of Australia (G-G). His report also found that army’s administration used to bring on my termination was beyond reproach and that my complaints of unfairness were groundless.
20. In 1981, my mother (then a teachers’ aide) formally challenged Killen QC on the authenticity of his non-existent ombudsman. He replied that the DFO was a statutory authority, totally independent from Defence. Hence Killen QC lied to maintain his corruptive deception. He had no regards to any ethical standards or to the rule of law. He was able to inflict serious harm and injury upon myself and my family. In reality Killen, QC had one of his own senior public servants within Defence write up the fraudulent DFO investigation report using a DFO letterhead. There was no DFO in existence at that time. Furthermore, this fake DFO report was nothing more than multiple plagiarisms, paragraph after paragraph, copied from the 1981 documents produced by two generals who fabricated their charges against me. In 1994 the Administrative Appeals Tribunal (AAT) found Killen’s DFO report was merely a “cut and paste” job from the 2 general’s NTSC original charge documents. The AAT also found that no DFO existed at that time. These findings were made under FOI and AAT Act laws.
21. In 1990 Defence-Army refused to comply with a directive from the G-G to have my case re-examined. It lied to the G-G, via ministerial staff, that my case was then currently being investigated by the (real) DFO. It used this audacious lie to provide time for separate branches of Defence to lose destroy or feign destruction of my army personal history records. These included the evidence of my constructive dismissal and Prime Minister Bob Hawke’s initiated investigation of my case (i.e. Senator G Evan’s documents). There was no DFO investigation of my case in 1990. There has never been, neither before or after 1990, an ombudsman investigation of my case despite responsible minister’s repeated assertions to the contrary.

22. Defence was able to repeatedly maintain the above lies 1981 to 1994. It used these lies to cover up its multiple abuses of power involved in my case. It covered behind the deception that an independent statutory ombudsman system had cleared Defence of any wrongdoing or maladministration and natural justice had prevailed. It was able to deflect responsibility and accountability away from itself.
23. After an honest public servant called out Army for its 1990 lie to the G-G that my case was under (alleged) investigation by the DFO, the then responsible Defence Minister produced an improper and disgusting ministerial cover up investigation report to the G-G. It was full of lies and misrepresentations that were used to justify the 1981 charges against me and to protect Killen QC's corrupt pseudo DFO investigation report. I obtained FoI Act copies of his ministerial investigation report to the G-G. I used these copies to formally expose this new misfeasance in my detailed petition to the G-G. Regrettably and pathetically, the G-G stood by his minister's report and so knowingly inflicted more pain and suffering upon me to the point it was unbearable. My thoughts turned to suicide and worse.
24. By 1991 the ex-Major Warren case had got to the point where the generals and their ministers saw themselves as been above the law. In fact it was clear that they had dug themselves into a deep cesspit of lies and moral cowardice and had made themselves prisoners of honour. Thereafter, they had to rely on corruptibility of external scrutineers to maintain their cover-ups.
25. For decades, Defence and its portfolio responsible ministers ritually told me to take my complaints to the ombudsman. Defence knew it was attempting to push me into a dead-end. Defence knew that both the DFO and the Commonwealth Ombudsman had refused to investigate my case several times over. I applied to the real DFO in the early 1980s. He declined to investigate my case on the grounds that, "we do not normally investigate actions which took place more than 12 months previously – the reason being that our limited resources required that we concentrate on current issues and because experience has shown that investigations of old actions tend to be unsatisfactory because of failing memories, turnover of staff, destruction of papers, etc."
26. However, refusal by an authentic ombudsman to investigate my case didn't stop Defence, Ministers of Defence and a Prime Minister from persisting with their chronic lies that my case had been independently investigated by a statutory DFO, who allegedly found in Defence's favour and dismissed my complaints as groundless. This was their corrupt justification to refuse to properly examine my case from 1981 to 1994.

27. In 1994 the AAT found there was no evidence whatsoever in the 1980 NTSC documents used by Army to prove my (alleged) unprofessionalism and incompetence. As previously mentioned it found there was no DFO in existence in 1981, as claimed by Killen, QC. It also found that, despite claims by portfolio responsible ministers, my termination from army had not been comprehensively, objectively and thoroughly investigated several times previously by competent authority.
28. After the AAT findings, the then Minister for Defence directed Army to investigate my case anew. But the Chief of Army. LTGEN J Grey decided he needed to appoint an independent investigating officer who could 'rebut' my grievances so as to deny redress of wrongs to me. In late 1994 Grey produced the LTCOL B Salmon, QC Investigation Officer (IO) Report. This report confirmed the AAT findings that there was not one 'scintilla' of evidence to demonstrate the charges that I was unprofessional /or incompetent. Salmon, QC falsely claimed that my termination from army was caused by accidental "unfair administration" for which no one was to blame and that no one had acted unfairly against me. Salmon QC's IO Report was a desperate cover up that was poor and improper. It was Army's damage control report in the wake of the earlier AAT findings that included calling Killen QC's lies to account.
29. LTCOL Salmon QC went one step further. He filed a secret disclaimer on his IO Report to state that he **did not investigate Defence administration in the legal sense because his Terms of Reference (TofR) did not require him to do so.** He falsely claimed they only required him to examine 'moral' aspects of Defence administration and 'moral' is not a legal term. LTGEN JC Grey's TofR for LTCOL Salmon, QC baldly directed him to investigate:
- "a. Whether there was unfair, misleading or improper Defence administration, and  
b. if so, if such administration caused the loss of career and livelihood or adversely affected the reputation of Mr Warren."
- Salmon's lie was the basis on which LTGEN Grey was able to 'rebut' my complaints and to continue to build Army's cover-up lie that no one was to blame for my constructive dismissal from Army.
30. The LTCOL B Salmon QC IO Report remains Defence's definitive cover up report to this day. It has repeatedly been used to deny me a proper investigation and a proper redress of wrongs. Former Prime Minister, John Howard refused to have the Salmon QC IO Report challenged. Subsequent Prime Ministers, both Liberal and Labor, have stood behind Howard's stance. It is my understanding that B Salmon QC had private chambers

in Canberra and was well known amongst the political elite. He regarded John Howard as a lifelong friend from their law school days together in Sydney.

31. In 1997, I wrote to the Attorney General, Daryl Williams, with details of how my constructive dismissal from army was being improperly handled by the generals and their portfolio responsible ministers. The A-G would be fully aware of the obligation of minister of the crown to decide properly on such grave matters. He declined to assist on the basis that my case had already been *“the subject of several Administrative Appeals Tribunal hearings and two investigations by the Defence Force Ombudsman, all of which concluded that there were no grounds for (my) complaints. Mr Warren also petitioned the Governor-General who upheld the Army’s claims. And numerous ministerial investigations concluded that the army acted properly at all times.”*
  
32. This is absurd dishonesty or incompetence by the Attorney-General’s Department. It must have known that my forced termination from army had not been examined by the DFO. The AAT gave decision in 1994 that my case had not been “exhaustively reviewed several times”. (This included those ‘investigations’ claimed by the Governor-General and Prime Minister) The A-G also must have known that my three AAT hearings related only to FoI Act matters, namely:
  - (a) No. N90/575 – Access to my army personal history records that Defence-Army lied had all been lost, destroyed or accidentally destroyed when in fact they were extant.
  
  - (b) No. N91/542 – the failure of the then deputy Chief of the General Staff, MAJGEN JC Grey to give adequate reasons for his decision not to amend my personal army records under S48 of the FoI Act. The AAT ruled that he did not comply with his statutory obligations and he had not given a proper formal response to my FoI Act request.
  
  - (c) No. N92/621 – Request for 13 amendments to be made to my army personal history records to correct inaccurate, misleading or out of date information pursuant to S48 FoI Act.

It was the AAT/ FoI Act decisions at this hearing that obliged the then Minister for Defence , Robert Ray, to have my case re-investigated by Army. This resulted in yet another cover up investigation by LTCOL B Salmon QC. There were a couple of other



AAT hearings relating to (c) above which the AAT referred to as preliminary or directions hearings. Again, these were related to FoI Act matters.

33. For the A-G to claim that examination of my constructive dismissal from army had been subject to ‘several AAT hearings’ is repugnant to any decent minded person and he would have known that. As the case now stands there is a conga line of key officials from a Governor-General, Prime Ministers, Ministers for Defence, an Attorney General, several parliamentary committees of inquiry, and if the A-G is to be believed, *‘several AAT hearings and two investigations by the DFO, all of whom, after exhaustive, comprehensive and objective....., found that no one has acted unfairly against Major Warren.’* Presiding over this chaotic misfeasance are the generals with their ‘magnificent’ lies and dishonour. They can and do dupe any key official who gets in their way. Service suicides are merely collateral damage to these unconscionable officers.
34. The problem for Defence is that it does not have the honest officers to step forward to actually stop the corruption of Defence maladministration in the Military Justice System. The generals and their ministers continue to exploit cover up mechanisms but lack ability and integrity to uphold any sense of fidelity to duty as exemplified by the longitudinal profile of my case.
35. In 2013 I made submission to the Defence Force Abuse Task Force (DART) programme which was chaired by MAJGEN L Roberts-Smith. International law firm DLA Piper examined my DART submission. Within the confines of its limited remit, it found that I had probably been abused by Army. This was a serious contradiction to LTGEN Grey’s Salmon QC IO Report. That report found no (legal) unfair administration, (because it allegedly didn’t look for it) and no abuse. The Australian Government continues to hide behind the Salmon QC report. By using his secret disclaimer, Salmon QC only found accidental, morally unfair administration for which no-one was to blame. This was nothing short of a naked and deliberate provocation once the disclaimer was uncovered under FoI access.
36. In 2015, as part of the DART program, I had a meeting with MAJGEN Rick Burr, then Deputy Chief of Army. He gave me his word in the presence of two witnesses to have my case re-investigated by army in an honest manner. He stated he would get to “the bottom of it.” Weeks later he reneged on his undertaking. Instead he wrote to inform me that my case cannot be re-opened by direction of the Australian Government because it stands behind the 1994 LTCOL B Salmon QC IO Report that asserts that I was

not abused. Salmon QC had also implied that Killen QC's fraudulent DFO investigation report was thorough, comprehensive and objective and done by competent authority.

37. MAJGEN Burr suggested that I could write to the Commonwealth Ombudsman if I wanted to pursue my case further. I did so knowing full well what to expect. On 11 March 2016 he wrote to inform me of his decision not to investigate my case because "it does not appear you have raised any new issues since approaching our office in 2007.....and it has previously been considered by our office." (not to investigate your case.)
38. MAJGEN Burr whitewashed the DLA Piper finding that I was probably abused. He did not acknowledge it. He merely listened to my grievances without contesting them, then later apologised for any pain and suffering my army service may have cause me. He reduced the DLA Piper findings to next to worthless.
39. MAJGEN L Roberts-Smith's suggestion to this RC that some potential future change in DFO law to strengthen reporting systems **through it does** not address the fundamental reason why this RC was established in the first place. He is focused on peripheral matters that risk giving false hope to the multitude of people who need genuine outcomes from this RC. The ombudsman system lacks real ability to address the serious and systematic abuses of power by Defence that they have had to endure to date. The DFO cannot address the most serious of issues of portfolio responsible ministers acquiescing with their bureaucrats and generals to maintain and cover up abuses of power and maladministration. Hence the trauma and suffering that leads to service related suicides, attempted suicides and suicidal thoughts will continue unless this RC can properly identify and come to terms with what Defence and its responsible ministers are doing and will continue to do unless there are significant repercussions.

Ex-Major Allan K Warren

30 September 2022