This is a personal submission to the government Covid 19 enquiry. We were impacted as a family when the main and single breadwinner of our family, was terminated from his work for failing to be vaccinated. We feel that this situation was a breach of our family's human rights and to that end share the following information to the enquiry to highlight the deep concern that we have around the governments management of the response the covid 19 situation.

This small paragraph is our personal anecdote, provided to give context to this submission. [redacted] worked **as** [redacted] supervisor for the company [redacted] for 10 years. In 2021 he received an email asking for his vaccination status. As we held great fear and concern over the safety and efficacy of the experimental product being offered as a Covid 19 vaccination, we decided we would not participate in the trial of the medical product. We did not feel that the principle of Informed Consent was being upheld and had no confidence in the product. It became clear after a number of emails from his employer that they were taking he position that they needed to collect his vaccination status in order for him to perform the inherent requirements of his job role. We felt and still feel that this was a discriminatory action. However, due to his inability to provide this information, he was terminated. This has caused ongoing and extreme stress to [redacted] has struggled to maintain regular employment since.

I am sharing below some information prepared by Peter Fam LLB Principal Lawyer - Human Rights, extracted from his firm's own submission letter to the enquiry that we feel represents our own questions and concerns with regard to the government's response to the Covid 19 situation. We are sharing this information again to highlight the deep and troubling concern that we have over the way that the government and its statutory bodies are interpreting, actioning and implementing Human Rights concerns in this country.

Has the law in Australia on Informed Consent been ignored?

22. Australia has a long legal history of upholding the central medical tenet of fully informed and free consent.
23. Various domestic statutes, such as the Guardianship Act 1987 (NSW), the Mental Health Act 2007 No 8 (NSW) and the Victorian Charter of Human Rights and Responsibilities Act 2006 (VIC) contain definitions of the concept that are generally analogous. The latter, for example, has the following definition: "A person must not be…subjected to medical or scientific experimentation without his or her full, free or informed consent".
24. This is, again, an example of a human right which Australia has covenanted into via an international treaty (Part III, Article 7 of the ICCPR) which has been enshrined into our domestic law.
25. The principle is also reflected in the many regulations that inform both the medical and legal professions in this country. For example, the Code of Conduct for doctors states unequivocally that "informed consent is a person's voluntary decision about medical care that is made with knowledge and understanding of the benefits and risks involved". The Australian Law Reform Commission states that "Informed consent refers to consent to medical treatment and the requirement to warn of material risk prior to treatment. As part of their duty of care, health professionals must provide such information as is necessary for the patient to give consent to treatment, including information on all material risks of the proposed treatment. Failure to do so may lead to civil liability for an adverse outcome, even if the treatment itself was not negligent". There are many other examples.
26. In the common law, there is a well-known positive duty for Doctors to warn patients of material risks inherent to any treatment proposed (see Rogers v Whittaker (1992)). A 'failure to warn' patients of material risk, and the subsequent breach of duty of care at common law, is the foundation of most medical negligence cases in Australia, of which there are thousands per annum.
27. In Wallace v Kam [2013] HCA 19, the High Court was clear:
The common law duty of a medical practitioner to a patient is a single comprehensive duty to exercise reasonable care and skill in the provision of professional advice and treatment […] The component of the duty of a medical practitioner that ordinarily requires the medical practitioner to inform the patient of material risks of physical injury inherent in a proposed treatment is founded on the underlying common law right of the patient to choose whether or not to undergo a proposed treatment.
28. Given the above, which must be described as a comprehensive and consistent approach in Australian law, it is remarkable that so many Australian citizens underwent vaccination against Covid19, a provisionally approved medical treatment, in circumstances where they:
a. Did not fully understand the material risks associated with that treatment; and
b. Were subjected to significant social and economic pressures to undergo that treatment.
29. It is not unreasonable to argue that nobody in Australia was capable of providing fully informed and free consent to vaccination against Covid-19, given the pressure being exerted daily by employers, media and politicians, and the inaccurate and incomplete information being made available to them.
30. This poses the question of whether the law on informed consent in Australia has been bypassed or ignored, and if so, how and why this was allowed to occur.

Is the Separation of Powers functioning appropriately in Australia?

31. The Australian Constitution distributes power to govern between the Parliament, Executive and the Judiciary. With respect to the judiciary, this is an important separation, because the judiciary is often tasked with assessing the legality and correctness of Government laws and decisions. Indeed, this is one of the primary functions of the judiciary.
32. On 27 September 2021, a decision in the matter of Jennifer Kimber v Sapphire Coast Community Aged Care Ltd (C2021/2676) was handed down by a full bench of the Fair Work Commission.
33. That decision featured a dissenting judgment by Deputy President Lyndall Dean, which was highly critical of the approach taken by Governments in Australia to Covid-19. It is, to date, the only decision by a member of any Tribunal or Court in Australia that has been critical of the measures taken by Government in response to Covid-19.
34. This may be partly due to the way the Deputy President was punished for her judgment. President Justice Iain Ross immediately barred the Deputy President from appeal cases. The President told the Deputy President that her conduct constituted "misuse of her statutory office" and that she had breached "basic principles of quasi-judicial decision-making including criticising government policy and doing so in highly inflammatory terms". She was forced to undergo professional conduct training.
35. Of course, members of the Fair Work Commission, as well as other Tribunals and Courts in Australia, are appointed by the Government. The removal of an appointee from the Fair Work Commission can only be done through a vote by Parliament.
36. By contrast, the Judge who heard perhaps the most famous case involving the assessment of Government measures against Covid-19, and who essentially endorsed the actions of Government as lawful and reasonable, has recently been elevated to the High Court.
37. It is not unreasonable to wonder whether such elevation would have occurred if that Judge was to have made a different decision in that case, and whether that kind of potential detriment may have influenced, consciously or subconsciously, his decision. High Court judges, of course, are appointed by the Governor-General, who is part of the Parliament and the Executive.
38. The question thus must be asked: is it appropriate that judicial officers be appointed and promoted by members of Parliament and the Executive given they are often tasked with critiquing the decisions of those members?

Are our discrimination and privacy laws adequate to protect people against discrimination on the basis of their medical status, and to protect people's private medical information?

39. Federal and State discrimination statutes focus on 'protected attributes', including race, sex, pregnancy, marital status, family responsibilities, breastfeeding, age, disability, sexual orientation, gender identity or intersex status. These protected attributes do not include medical status or record, despite the AHRC Act including 'medical record' within its definition of 'discrimination' (but not 'unlawful discrimination', which has a different definition).
40. This means that, in brief, somebody who has been discriminated against in Australia on the basis of their medical record or status cannot proceed to the Federal Court accordingly. The only means of action available to that person is, if the discrimination occurred in the context of their employment, to complain to the AHRC pursuant to Section 31 of the AHRC Act, and to hope that the AHRC chooses to inquire into and conciliate the issue. This is not very effective protection. Do we need a more explicit protection against this form of discrimination?
41. With respect to Privacy, Covid-19 saw employers intrude violently into the private medical histories and records of their employees, often with no regard for the Australian Privacy Principles, enshrined in the Privacy Act 1988 (Cth) which provide stringent restrictions and conditions on the collection and storage of this information. In almost all cases, employers said that the collection of employees' vaccination status was lawful and reasonable to ensure that the employee could safely perform the inherent requirements of their job – but this is an oversimplification of a law which is supposed to be applied in exceptional circumstances only, based on the individual circumstances of each employee. Did employers generally breach Federal and State privacy laws in Australia during Covid-19, and if so, how and why was this allowed to happen, and how can it be avoided in future.

With regard to any recommendations that we would offer to the enquiry I would state the following:

1. Stop the fearmongering. Change the public health messaging away from any kind of 'safe and effective' language and allow the public the dignity of making their own personal fully informed decisions about how they will manage their own health.
2. Stop giving 'provisional approval' and 'back door' access to pharmaceutical companies via the TGA. There is a great necessity for more vigilance and a thorough and broad reaching investigation of health and safety data, trial data and long-term studies must be required of new and experimental medical products, with particular regard to products referred to as vaccines.
3. Stop all conflict of interests between corporate entities ie pharmaceutical companies, government agencies and so called 'nonprofits'.
4. Do not allow any kind of legal indemnity to pharmaceutical companies. There must be a requirement for accountability and compensation for people who have faced coercion in regard to keeping their employment or being terminated unjustly. There must also be compensation and accountability for people who have been injured by the "covid 19 vaccination rollout'. This should further extend to families who have lost family members in this disastrous situation.
5. The government should also be held to account for the misinformation they spread to the public and should be required to fully disclose the extent of the failure of the covid 19 pandemic response and be held to account for the egregious harm that has been done to the Australian public