

Accountability mechanisms of inquiries and investigations into Australian governments' responses to the COVID-19 pandemic

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During the COVID-19 pandemic, Australian state and territory governments have applied measures such as border closures, lockdowns, curfews, restrictions on movement and gatherings and vaccine requirements.^{1,2} These measures have typically relied on powers that are only available following the declaration of a public health emergency (PHE).¹ The pandemic and continued use of extraordinary powers creates a timely opportunity to analyse processes that can provide government accountability during PHEs.

A PHE describes a state of affairs where a person authorised by legislation declares an emergency because they are satisfied that there is a need for management of a health risk, and both the need and the risk meet a certain threshold.¹ For example, in Queensland, the Minister for Health and Ambulance Services may declare a PHE if they believe that there is an event or series of events that has contributed to, or may contribute to, serious adverse effects on human health, and it is necessary to exercise powers under the legislation to prevent or minimise those adverse effects.³ During the COVID-19 pandemic, the Federal Government and most state and territory governments declared PHEs.¹ New South Wales was the only jurisdiction that did not, instead relying on general public health powers.¹

The powers triggered by a PHE sit with the executive branch of government, meaning that persons such as ministers, chief health officers and authorised departmental officers supported by the public service decide

Abstract

Objective: Australian federal, state and territory government responses to the COVID-19 pandemic have been subject to public oversight by various domestic inquiries and investigations, despite little analysis about what accountability these processes deliver in the context of public health emergencies (PHEs) involving communicable disease. This article identifies and describes recent inquiries and investigations. It examines their ability to promote accountability through mechanisms of answerability (information and justification) and enforceability (sanctions).

Methods: A systematic scoping review was used to identify inquiries and investigations initiated by May 2021 and to examine the answerability and enforceability mechanisms present. Three diverse case studies were chosen for further description and examination.

Results: Seven parliamentary inquiries, two commissions/boards of inquiry and one Ombudsman investigation were identified. All had numerous mechanisms of answerability. All but two embedded enforceability mechanisms; these were limited, however, to basic reporting.

Conclusion: While inquiries and investigations can promote accountability through various mechanisms of answerability, external enforceability mechanisms may be beneficial to strengthen accountability and ensure learning.

Implications for public health: Consideration of the kind of accountability that public inquiries and investigations should provide in the context of communicable disease PHEs, and how accountability mechanisms can be strengthened, may improve future public health responses.

Key words: accountability, public health emergencies, communicable disease, health systems, COVID-19

which PHE powers to apply – and how.^{1,4} Democratic societies must ensure robust accountability frameworks for executive power, since any one use of such power is not typically subject to democratic endorsement via parliamentary debate.^{1,4} Ensuring accountability is particularly important during PHEs, when executive power is greater than in non-emergency times. Use, non-use or misuse of executive power during a PHE can have major impacts, both intentional and unintentional.

Accountability has been defined in many ways, but most definitions incorporate and emphasise the concept of answerability.⁵⁻⁷ Answerability involves the provision of information, explanation and justification.⁶ Australian literature discussing accountability for executive power during the COVID-19 pandemic (for example, generally,⁴ within PHE legislation¹ and through federal parliamentary committees⁸) does not explicitly define accountability. However, an understanding of accountability as

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Submitted: December 2021; Revision requested: March 2022; Accepted: April 2022

The authors have stated they have no conflicts of interest.

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Aust NZ J Public Health. 2022; Online; doi: 10.1111/1753-6405.13258

linked to answerability is apparent from the use of related words such as information, explanation, transparency, review and scrutiny.

In both public health and public administration literature, a second proposed feature of accountability is evident: enforceability.^{5,6} Enforceability relates to the availability of sanctions where issues are identified with how power is used.^{5,6} Sanctions can mean punishment, or a requirement for issues to be rectified, but they can also be thought of more broadly as consequences.^{6,7} A consequence may involve a requirement that reduces the likelihood of identified issues being repeated, such as monitoring or a step that encourages learning.^{6,7} Consequences can be provided by the same system that provides answerability or by separate means, such as long-route accountability where the consequence of issues with the use of executive power is an unfavourable vote.^{6,7} While there is no universally accepted definition of accountability even within the fields of public health and public administration, enforceability clearly makes for stronger accountability.⁶

In Australia, various processes can examine executive power during PHEs. These include: government reviews; conditions and procedures within PHE legislation; legal action; public investigations (e.g. by watchdogs and statutory bodies such as ombudsmen and human rights organisations); and public inquiries (e.g. Royal Commissions, boards or commissions of inquiry, parliamentary inquiries and coronial inquests).^{1,4,8} Australia has a long history of investigations and inquiries into major events and matters of public health policy, political and administrative importance,^{9,10} including inquiries into communicable disease issues.^{11,12}

Literature on public inquiries and investigations in Australia indicates that they can make governments answerable to the public, for example, by compelling the provision of information about government conduct, decisions and reasoning and/or by publicising findings through open hearings, reports or media.^{9,10} However, the presence and strength of enforceability mechanisms, whether embedded within inquiries or supported by external means, are unclear. Public inquiries, for instance, after identifying issues with government conduct appear to have limited powers

regarding consequences.⁹ Thirty years on, only 64% of the recommendations from the national Royal Commission into Aboriginal Deaths in Custody are fully implemented.¹³ Between 1939 and 2010, Royal Commissions and other inquiries into bushfires produced almost 1,000 recommendations with many overlapping and recurring themes.¹⁴

Since March 2020, there have been a number of inquiries and investigations regarding state and federal government responses to the COVID-19 pandemic in Australia. The contemporary nature of COVID-19 and the uptake of public inquiries and investigations calls for an assessment of how these processes can promote accountability for the use of executive power during communicable disease PHEs.

This paper explores public inquiries and investigations as accountability mechanisms in the specific context of Australian governments' responses to COVID-19. It aims to: a) identify and describe the purpose, scope and progress of public inquiries and investigations initiated into federal, state and territory governments' health responses to the COVID-19 pandemic; and b) examine the answerability and enforceability mechanisms embedded within them.

Methods

Systematic scoping review

Between March and May 2021, Google searches for "COVID (inquiry or investigation or commission)" and "COVID report (inquiry or investigation or commission)" were conducted using domains for official government websites. The first 100 results for each search (n=1800) were reviewed for reference to a public inquiry or investigation into executive governments' management of COVID-19 (n=152), and specific cases of inquiries or investigations were then determined (n=10).

Websites were excluded from the review where they related to general or non-health-related issues (n=24), broader inquiries that also happened to consider COVID-19 (n=6) or internal reviews or assessments that were later published (n=17). The New South Wales Government website domain and websites relating to New South Wales proceedings were included, despite that government relying on ordinary public health – not PHE – powers. The justification for this is that New South Wales is the only government within Australia that has not declared a PHE and, like

other jurisdictions, its public health measures still relied on executive power.¹

The official websites for the 10 cases were located and reviewed for pages and documents that had terms of reference, media releases, reports, letters and responses from government. Information was extracted on the responsible body, scope of the inquiry or investigation, timeline, steps taken, progress, outputs and government engagement. In December 2021, status update checks were performed on these websites.

Also in December 2021, documents about procedures applicable to the cases were identified on official legislation and parliament websites. For parliamentary inquiries, standing orders for the house of parliament hosting the inquiry were reviewed. Where these sources did not contain information regarding powers following non-compliance of witnesses and non-response by governments to findings, further searches were conducted for parliamentary legislation and resolutions on official websites. For other cases, authorising legislation for the process was located and reviewed. Information was extracted about powers applicable during and after any inquiry or investigation.

Data identifying and describing the inquiries and investigations are summarised in Table 1. A detailed summary of data extracted from legislation and parliament documents is available in Supplementary File 1.

Case studies

Three case studies were chosen to provide a closer examination of all material located through the systematic scoping review. They were selected from proceedings finalised by May 2021, with the intention of achieving diversity across the following criteria: category (inquiry or investigation); level of government under examination; mandate; and extent of government engagement. In December 2021, updates on government responses and implementation were sought via Google searches of the case study names and the word "response" in the domain ".gov.au".

Results

Inquiries and investigations into COVID-19 responses

As of May 2021, nine inquiries and one investigation into Australian governments'

Table 1 - Description of public inquiries and investigations into Australian governments' responses to the COVID-19 pandemic.

Ref	Title	Type	Government examined, and investigating body	Mandate	Announced	Status at 31.5.21	Reports and recommendations	Government response to recommendations	Material available on body's website as of 5.12.21
	Unless separately referenced, information and reports for each row are accessible on the site referenced in this column				Changes as of 5.12.21 bracketed	Changes as of 5.12.21 bracketed	Changes as of 5.12.21 bracketed	Changes as of 5.12.21 bracketed	
Inq1	Inquiry into the Australian Government's response to the COVID-19 pandemic ⁵	Inquiry	Federal, by federal parliament select committee	To inquire into and report on the Australian Government's response to the COVID-19 pandemic and any related matters	8.4.20	In progress – due to report on 30.6.22	Two (three) interim reports, with recommendations about coordination, communication, transparency and response activities	None	Mandate and timeframes, interim reports, submissions received, public hearing transcripts, public hearing recordings, public hearing programs, letters to government agencies, answers to questions on notice, media releases
Inq2	Inquiry into the Queensland Government's health response to COVID-19 ¹⁶	Inquiry	Queensland, by Queensland parliament standing committee	To inquire into and report on the Queensland Government's health response to COVID-19	22.4.20	Lapsed on 6.10.20 with dissolution of parliament after election	Interim report, with recommendations relating to capacity building and communication	Government reported support or support in principle of all recommendations and made specific comments in relation to each recommendation	Mandate and timeframes, interim report, government response, submissions received, public hearing transcripts, link to hearing recordings, expiring after a year, public hearing programs, letters to government agencies, answers to questions on notice
Inq3	Inquiry into New South Wales (NSW) Government's management of the COVID-19 pandemic ¹⁷	Inquiry	NSW, by NSW parliament standing committee	To inquire into and report on any matter relating to the NSW government's management of the COVID-19 pandemic and any related matter	27.3.20	In progress – due to report by 30.6.21 (extended to 25.3.22)	None	N/A	Mandate and timeframes, submissions received, public hearing transcripts, public hearing programs, letters to and from government agencies and stakeholders, answers to questions on notice and supplementary questions, media releases
Inq4	Special Commission of Inquiry into the Ruby Princess ¹⁸	Inquiry	NSW and Federal, by special commission of inquiry	To inquire into and report on five specific matters relating to knowledge, decisions, actions, communications and policies relating to movements, docking and disembarkation of the Ruby Princess cruise ship	15.4.20	Completed 14.8.20	Report with recommendations relating to the docking and management of cruise ship	NSW government stated that it was committed to implementing the recommendations ¹⁹	Mandate and timeframes, report, submissions received, documents tendered, public hearing transcripts, witness lists, media releases
Inq5	Select Committee on the COVID-19 pandemic response ⁶	Inquiry	Australian Capital Territory (ACT), by ACT parliament select committee	To consider and report on the ACT Government's health and financial response and any other matter relating to the COVID-19 pandemic and the ACT	2.4.20	Completed 8.10.20 (and dissolved)	Four interim reports and a final report, with interim reports containing wide-ranging recommendations, including on health response capacity, communications, demographic groups, human rights and non-health issues	Government reported position on each recommendation including whether noted, agreed or agreed in principle.	Mandate and timeframes, reports, government responses, submissions received, public hearing transcripts, answers to questions on notice, documents tendered, media releases
Inq6	COVID-19 Hotel Quarantine Inquiry ²¹	Inquiry	Victoria, by board of inquiry	To inquire into and report on five specific matters relating to knowledge, decisions, actions, communications and policies relating to Victoria's hotel quarantine program	2.7.20	Completed 21.12.20	Interim report and final report with recommendations relating to when and how hotel and home-based quarantine should be used	Government reported response to each recommendation and provided updates on the status of implementation ²²	Mandate and timeframes, reports, submissions received, public hearing transcripts, public hearing programs, documents tendered, media releases
Inq7	Inquiry into the Victorian Government's COVID-19 contact tracing system and testing regime ²³	Inquiry	Victoria, by Victorian parliament standing committee	To consider, monitor and report on the capacity and fitness for purpose of the Victorian government's COVID-19 contact tracing and testing regime	28.10.20	Completed 14.12.20	Final report with recommendations to improve the regime	None (government has since reported support or supports in principle of all recommendations)	Mandate and timeframes, report, government response, submissions received, data received, public hearing transcripts, answers to questions on notice, media releases
Inq8	Investigation into the Victorian Government's response to the COVID-19 pandemic ²⁷	Investigation	Victoria, by Victorian Ombudsman	To investigate the treatment of people at a specific public housing tower address, with specific regard to their conditions, communications and consideration of human rights	17.7.20	Completed 17.12.20	Final report with recommendations to address issues with residents and improve future conduct	Government issued an immediate response stating disagreement with findings ²⁵ but has since reported full or partial progress on all but three recommendations ²⁶	Report in several languages, including information on scope, evidence relied on and government response to draft report, and news on response from government one year since report
Inq9	COVID-19 response committee ²⁸	Inquiry	Victoria, by Victorian parliament standing committee	To review and report on the responses taken by the Victorian government to manage the COVID-19 pandemic, and any other matter related to the pandemic	28.4.20	Completed 2.2.21	Interim and final report, with wide-ranging recommendations including on operation of public health system, communication and capacity building	Government reported position on each recommendation, and supported or supported in principle all recommendations	Reports, government responses, submissions received, public hearing transcripts, public hearing programs, information presented at public hearings, data received responses to questions on notice, media releases
Inq9	COVID-19 response committee ²⁸	Inquiry	South Australia (SA), by SA parliament select committee	To monitor and scrutinise all matters related to the management of the COVID-19 response, any related policy or other related matter	8.4.20	In progress – no due date	(Two) interim report(s) without recommendations	N/A	Reports, submissions received, public hearing transcripts, documents and letters received, responses to questions

health responses to COVID-19 were identified. These are summarised in Table 1 with reference codes.

The only investigation was a Victorian Ombudsman investigation with narrow scope (*Inv1*). It took five months from the announcement of the investigation for a report with recommendations for the Victorian Government to be finalised.

Public inquiries had varying scope and examined a range of governments. Inquiries were identified into all Australian governments' COVID-19 responses except the state/territory governments of Tasmania, Western Australia and the Northern Territory. One inquiry (*Inq4*) examined both the New South Wales Government and the Federal Government.

Seven inquiries were parliamentary (*Inq1-3, Inq5, Inq7-9*), one was a special commission of inquiry (*Inq4*) and one was a board of inquiry (*Inq6*). Except *Inq7*, parliamentary inquiries were mandated to examine overarching responses, whereas the boards and commissions of inquiry and the Ombudsman investigation (*Inv1*) regarded specific events. Some parliamentary inquiries (*Inq2-3, Inq7, Inq8*) were by standing committees (existing and continuing committees), and some (*Inq1, Inq5, Inq9*) were by select committees (committees established to conduct the inquiry).

Not all recommendations were supported by government. As of 5 December 2021, three broad-mandate inquiries were still in progress: the federal parliamentary inquiry (*Inq1*), due to report in June 2022; the New South Wales parliamentary inquiry (*Inq3*), initially due to report in June 2021 but twice extended, taking the report date to March 2022; and the South Australian parliamentary inquiry (*Inq9*) which had no reporting date and, while it had released brief interim reports, had not made recommendations.

Mechanisms of answerability

The review of legislation and parliamentary material (Supplementary File 1) showed mechanisms, in all cases, to compel information and justification regarding governments' health responses to COVID-19. This provision of information and justification was also observed in practice having regard to the information presented in Table 1.

As per Supplementary File 1, all bodies responsible for the identified cases could request documentary, in-person and other

evidence, often by way of a summons and with specific powers to examine witnesses. Non-compliance by witnesses could constitute an offence punishable by fines and/or imprisonment (*Inq4, Inq6, Inv1*) or attract the risk of being found in contempt of parliament (*Inq1-3, Inq5, Inq7*). Orders for compliance could sometimes be sought from Supreme Courts (*Inq6, Inv1*). While there are instances where witness non-compliance would not be an offence, such as where there was a reasonable excuse (*Inq4-6, Inv1*), and in its latest two interim reports the federal Senate Committee on COVID-19 (*Inq1*) expressed major concerns about government misusing claims of public interest immunity, overall, there are powers and penalties encouraging compliance.

Frameworks to publicise proceedings and findings so that they are on the public record vary. The Victorian Ombudsman (*Inv1*) must conduct investigations in private and is unable to publicly report findings unless it takes certain steps, such as first communicating them to government and awaiting response. The parliamentary inquiries (*Inq1-3, Inq5, Inq7-9*) could occur in public, with greater discretion to conduct aspects of proceedings in private than the other inquiries (*Inq4, Inq6*), which were public by default. Despite these differences and some ability by all mechanisms to restrict or refuse to approve publication, all cases have published comprehensive material and evidence online (Table 1). This enables the public to access information and justification from government about issues the inquiry or investigation considered.

Mechanisms of enforceability

The special commission and board of inquiry (*Inq4, Inq6*) do not embed any mechanisms of enforceability, including any requirement for a response.

The types of consequences other inquiries and investigations can apply to basic reporting and powers of escalation. As per Supplementary File 1, if recommendations are made, most parliamentary inquiries require a government response within a maximum of 6 months (*Inq1-3, 5, 7-8*). Some can follow up by raising compliance issues with parliament (*Inq3, Inq5*). All parliamentary inquiries have a framework for contempt proceedings, though they vary in scope and whether and how they apply will depend on the circumstances. The Victorian Ombudsman (*Inv1*), while it must first satisfy a list of pre-conditions, can

also sometimes raise non-response with parliament.

Following concerns identified with the use of power, no inquiry or investigation identified can request progress reports, impose punishment or require a specific action to be taken to fulfil recommendations. Their enforceability mechanisms simply encourage governments to respond to findings and recommendations.

In practice, while governments made specific comments on recommendations in six cases (*Inq1-2, Inq5, Inq6-8*), progress reports have only been provided in two cases (*Inq6, Inv1*) as of December 2021.

Case studies

Three case studies are presented to describe inquiries and investigations and explore answerability and enforceability in more detail. They assist to illustrate context, content and gravity of the issues raised, as well as the nature of government engagement.

Case study 1: Special Commission of Inquiry into the Ruby Princess^{18,29} (Inq4)

Background and mandate: In March 2020, infected passengers disembarked a cruise ship in Sydney, New South Wales. This event was linked to one of Australia's largest community outbreaks of COVID-19 in the pandemic's first 12 months. A Special Commission of Inquiry was tasked to inquire into and report on various matters regarding infected passengers disembarking the ship, and management of cases as they entered the community. In respect of the role of government, it was required to inquire and report on communications, decisions, actions, policies and protocols applied involving the Federal and New South Wales Governments.

Timeline:

Announced: 15 April 2020

Final report: 14 August 2020

Response: 14 August 2020

Status at December 2021: No progress updates

Findings: The Special Commission's report identified several issues, the major ones being: 1) the changed definition of a suspected case was not properly communicated to cruise ships, and more than 100 cases were consequentially overlooked; 2) results of tests taken on the docking day were not immediately reviewed; 3) the ship was improperly classified as low risk; 4) isolation accommodation was not provided for non-residents after disembarking; and

5) passengers were told they were free to travel. The report made recommendations regarding review of government guidelines and relevant legislation, improvement of human health reporting, protocols for communication, and awareness of the various responsibilities of different government bodies.

Answerability: As above, the Special Commission released a public report. Before this point, it held mostly public hearings, live-streamed. It required New South Wales and Federal Government agencies, organisations and individual employees, via summons, to provide documents and give evidence at hearings. While the Federal Government disputed that it could be compelled, it still assisted in what it declared to be a voluntary capacity.

Enforceability: Upon conclusion, the inquiry did not have the power to compel either government to report back or take particular steps (Supplementary File 1). Its only ability to create consequences was including in its report whether any issues warrant prosecution. This did not occur.

Government engagement: The New South Wales Government announced via media release a commitment to implementing, as soon as possible, recommendations within its power and to immediately begin working with the Federal Government on other recommendations.¹⁹ Immediately following the report, the Federal Minister for Agriculture requested that the Inspector-General of Biosecurity review areas of improvement for the delivery of biosecurity functions, including areas identified by the inquiry. The review, released in April 2021, made recommendations regarding the health-biosecurity intersection, changed processes and updated training, many of which aligned with the inquiry, with the Department of Agriculture agreeing fully or in principal with most, and noting four.³⁰ However, as of December 2021, there did not appear to be a specific response from the Federal Government to the original inquiry, nor any other comment, progress updates or commitments by the New South Wales or Federal Governments after April 2021.

Case study 2: COVID-19 Hotel Quarantine Inquiry^{21,31,32} (Inq6)

Background and mandate: Victoria implemented a 14-day hotel quarantine system to manage international arrivals.

Breaches in containment in that system were linked to the state's second wave of COVID-19. A Board of Inquiry was tasked with inquiring into, reporting on and making recommendations regarding government agencies and parties involved in hotel quarantine, communications involving government agencies, contractual arrangements, training and support, and any associated matters.

Timeline:

Announced: 2 July 2020

Interim report: 6 November 2020

Response: November 2020

Final report: 21 December 2020

Response: 25 March 2021

Status at December 2021: No further updates

Findings: The Hotel Quarantine Inquiry reports considered numerous failings in decision-making, procurement and management regarding the hotel quarantine program. A key issue was the use of private contractors. Many practical recommendations were made in both the interim report and final report, ultimately recommending a different model of quarantine incorporating a purpose-based facility model and a home quarantine model.

Answerability: The Hotel Quarantine Inquiry held public hearings and compelled information, evidence and documents through the use of summonses. The proceedings were made public via live-stream, not through in-person observation of hearings because of pandemic-related restrictions in force at the time. It published the report described under *findings*.

Enforceability: This inquiry had no ability to require a response or create other consequences (Supplementary File 1).

Government engagement: The Victorian Government committed to adopting all 81 recommendations and, by April 2021, had provided status updates on all recommendations and fully adopted 49.²² On closer inspection, however, 20 recommendations were deferred to National Cabinet and the Victorian Government effectively rejected recommendations regarding home quarantine, stating it would consider this 'if and when' deemed appropriate as a public health measure, and in consultation with the Federal Government.²² In December 2021, Victoria was allowing 3 days' home quarantine for fully vaccinated international arrivals,³³ but the progress report had not been updated.

Case study 3: Victorian Ombudsman investigation into the detention and treatment of public housing residents arising from a COVID-19 'hard lockdown' in July 2020²⁴ (Inv1)

Background and mandate: In July 2020, approximately 3,000 people who lived in public housing high-rises in Melbourne, Victoria, were locked down with no notice due to government concerns about community transmission. One building remained locked down for two weeks. Residents could not attend work or supermarkets, and many could not access fresh air or outdoor time. The Victorian Ombudsman initiated an own-motion investigation and set its own terms of reference. Its mandate was to investigate compliance with Victoria's human rights charter, the conditions of detention, communications by government and the nature and appropriateness of the restrictions placed on residents.

Timeline:

Announced: 16 July 2020

Report: 17 December 2020

Response: Acknowledgement on 17 December 2020, progress updates on 30 June 2021

Status at December 2021: No further updates

Findings: The Ombudsman report discussed issues regarding the decision to lock down, the continuation of the lockdown, review and oversight of the lockdown, human rights, humane treatment, health and wellbeing, community engagement and impacts. The report found that the detention of residents appeared contrary to law and human rights. It noted failures by government regarding communication, complaints processes, access to medication, access to fresh air and access to the outdoors. The Ombudsman recommended the Victorian Government issue a public apology to those detained in the public housing buildings and that changes be made to public health legislation to provide for oversight, citizens' rights to information and access to the fresh air and outdoor time. It recommended planning for high-risk accommodation, evaluation of the implementation of COVID-19 measures and the development of guidelines, procedures and training on emergency detention powers, capacity building, complaints, community engagement and relationship strengthening. Finally, it recommended the Victorian Government report back on all matters but the apology and legislative change by 30 June 2021.

Answerability: The Ombudsman requested information from the Victorian Government, took sworn evidence from government officials and obtained and reviewed government records. This was done both voluntarily and under summons. The Ombudsman's general investigations were not public, but in its published report, it provided a comprehensive summary of its inquiries. The Victorian Government has reported back as requested.

Enforceability: The Ombudsman recommended a progress report but does not have explicit powers relating to progress reports. It may only report to Parliament about a lack of engagement with its findings if it forms a decision that errors by the government appear to meet one of the general categories of errors set out in legislation, and believes no steps have been taken within a reasonable time (Supplementary File 1). The Ombudsman was not able to make such a report because the threshold to do so, a view that the government has taken *no* steps, was not met.

Government engagement: The Victorian Government acknowledged the report upon release, noting it would consider recommendations made and noting its position that it had acted lawfully at all times.²⁵ The Government has since reported back on each recommendation a report was requested for and action taken.²⁶ As of December 2021, it had not apologised or enacted all aspects of the recommended legislative change.^{34,35}

Discussion

Public inquiries and investigations into Australian governments' COVID-19 responses have generally succeeded in promoting answerability. While there can be challenges with governments' willingness to comply with proceedings, our findings demonstrate that they have facilitated the provision of information by government to the public, as well as justification, rationale and corresponding evidence from governments regarding the use of power in question.

Nonetheless, the ability of inquiries to promote answerability in the context of communicable disease PHEs could be affected by scope and length. The impact of mandate and reporting dates on answerability and in turn accountability should be examined in any future work on public inquiries' responsiveness to PHEs.

None of the public inquiries or investigations examined could issue punishment or require specific steps to be taken in relation to identified issues. However, this does not mean they did not embed any enforceability mechanisms, and claiming so does not properly account for the nature of PHEs. As seen by the nature of the findings outlined here, errors identified may not be criminal in nature and may not warrant punishment. Punishment or enforcing implementation of specific recommendations might detract from governments' legitimate powers to make decisions under PHE legislation.

Further, each PHE brings new challenges. Previous communicable disease outbreaks including the 1918-19 influenza pandemic could lend some guidance,³⁶ but the COVID-19 pandemic is distinctive. It is a large-scale rapidly-evolving pandemic occurring in a far more globally interconnected society. It has affected diverse populations and stakeholder groups including those with quite different understandings of communicable diseases and expectations of government response in an era of social media and online news. In this context, the learning promoted as part of the mechanisms of answerability provided by inquiries and investigations may be the most desirable product of public inquiries and investigations. Some scholars consider that inquiries are indeed effective in translating to learning.^{37,38}

Thinking of enforceability mechanisms as consequences, and in particular, consequences that support learning and reduce the likelihood of identified issues being repeated, it is clear that public inquiries and investigations do promote some form of enforceability. Where findings or recommendations are made, most of the processes examined require governments to respond. This requires some form of engagement with the nature of recommendations and in practice has generally seen governments provide at least one response to findings and recommendations.

However, these requirements do not go so far as to constitute monitoring, which makes it difficult to study whether and what lessons have been learned by government so as to avoid repetition of issues in the future. A 2009 Australian Law Reform Commission inquiry into official inquiries recommending that governments publish implementation updates on recommendations was, ironically, not implemented by any government.³⁹

Public inquiries and investigations do not exist in a vacuum, so other external accountability mechanisms, such as democratic processes, public interest journalism and long-route accountability (electoral pressure) may act as additional enforceability mechanisms.^{6,7} It is possible in the case studies of *Inq4* and *Inq6*, which did not have internal enforceability mechanisms, that the incentive of re-election encouraged the strong initial commitments. Effects in other cases are, however, not immediately apparent and, though it is too early to determine sustained effects, it is possible that long-route accountability may not be a strong enforceability mechanism in the case of communicable disease PHEs, given their often rapidly evolving nature.

This review raises several important avenues for further work. Given the likely increasing frequency of pandemics⁴⁰ there is a need to actively consider what types of accountability are desirable for public inquiries and investigations to demand of executive power in the context of communicable disease PHEs. Examination of how mechanisms of answerability could be better aligned with other processes to encourage institutional learning might strengthen both the governance and function of public health responses in the future. To the extent that it may be desirable or appropriate to see consequences that include stronger monitoring, censure or punishment of non-response to recommendations, there is also a need to explore what external mechanisms of enforceability are available to support public inquiries and investigations in promoting sustained learning.

Further study of parliamentary committees, building on existing work with a public health lens, may be of particular interest given the number and diversity of committees revealed. Our review did not include the full suite of potentially applicable rules, resolutions and laws or, whether relating to parliamentary inquiries, non-parliamentary inquiries or investigations, the daily records of parliamentary debate. We also note that the Victorian Ombudsman released a second COVID-19-related investigation report after the research period.⁴¹

Conclusion and implications for public health

While limited in scope to an overview of specific types of public inquiries and

investigations applicable to COVID-19 management in Australia via select case studies and set sources, this review provides an important snapshot of the way public inquiries and investigations have been used to hold executive power to account during the COVID-19 pandemic to date. It observes that there is scope for additional enforceability mechanisms to bolster the strength of accountability provided by public inquiries and investigations, via either internal or aligned external mechanisms.

It is important to consider what kind of accountability is demanded of public inquiries and investigations by the power available during communicable disease PHEs, as well as any scope to strengthen accountability. The uptake of these processes during the COVID-19 pandemic presents a research opportunity that could lead to lessons from the recent use of extraordinary powers being appropriately applied to future extraordinary times.

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Supporting Information

Additional supporting information may be found in the online version of this article:

Supplementary File 1: Overview of data on answerability and enforceability mechanisms within inquiries and investigations initiated into Australian governments' health responses to the COVID-19 pandemic.