



Australian Government
Productivity Commission

Compensation and Rehabilitation for Veterans

Productivity Commission
Issues Paper

May 2018

The Commission has released this issues paper to assist individuals and organisations to prepare submissions.

It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission.

The Issues Paper

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- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission.

Participants should not feel that they are restricted to comment only on matters raised in the issues paper. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

Key inquiry dates

Receipt of terms of reference	27 March 2018
Due date for submissions	2 July 2018
Release of draft report	December 2018
Draft report public hearings	February 2019
Final report to Government	27 June 2019

Submissions can be lodged

Online:	www.pc.gov.au/inquiries/current/veterans/make-submission
By post:	Veterans' Compensation and Rehabilitation Inquiry Productivity Commission GPO Box 1428 Canberra City ACT 2604

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The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au).

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1 Background to the inquiry

A recent report titled *The Constant Battle: Suicide by Veterans*, by the Senate Foreign Affairs, Defence and Trade References Committee, highlighted concerns with the legislative framework for compensation and rehabilitation for veterans. The Committee found the legislative framework to be complex and difficult to navigate, and noted concerns about inconsistent treatment of claims for compensation, and lengthy delays in the processing of claims (with unwarranted stress for veterans and their families). The Committee said it repeatedly heard that:

... excessive legislative complexity was a burden on veterans, advocates and the operations of DVA [Department of Veterans' Affairs] itself. (SFADTRC 2017, p. 67)

A particular concern of the Committee was that the current system, being complex and challenging to navigate, would compromise any efforts by the Department of Veterans' Affairs (DVA) to make the claims process 'veteran centric'.

The Committee recommended a review of the veterans' compensation and rehabilitation system, stating that 'it is time for a comprehensive rethink of how the current system operates and will operate into the future' (SFADTRC 2017, p. 68).

The Australian Government has asked the Productivity Commission to undertake the review.

2 About the veterans' compensation and rehabilitation system

The nature of military service

An implicit principle underpinning veterans' support is that military service is unlike other forms of employment. Military service involves a requirement to follow orders (even where personnel may have to apply violence or place their own lives or health in danger), frequent relocations (both for military personnel and their families) and long and irregular hours (box 1).

Military personnel are frequently placed in high-risk environments. There are risks in war or operational service and while in training or peacetime service. That said, the risks are likely to be higher (and less able to be managed by the defence force) while veterans are on war or warlike service.

And the impacts from military workplace injuries and illnesses are significant.

- Injuries incurred by defence personnel include crushed vertebrae and spinal injuries, brain injuries, gunshot wounds, falls causing back and shoulder issues, knee injuries, amputations, hearing loss, and back and lower limb injuries caused by requirements to carry heavy loads (JSCFADT 2013).

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- In 2016-17, over 14 000 military personnel were involved in incidents and, of these, about 700 were involved in dangerous incidents (potentially leading to serious injury or death). (In 2016-17, there were about 58 000 permanent members of the Australian Defence Force (ADF), and about 22 000 reservists (DoD 2017).)

Box 1 Comments on the features of military service

Many organisations and past reviews have commented on the unique or special nature of military service. For example, the Joint Committee on Foreign Affairs, Defence and Trade said:

Defence Force members are required to serve when, where and as required, often in the most hazardous circumstances. They must follow without question the directions of government, while at the same time demonstrating initiative and originality of thought in the execution of their duties. Hours can be long and irregular ... Family moves are regular, sometimes seemingly random and frequently stressful. (JCFADT 1988, p. 5)

Similarly Glenn said:

Those who join the Services make a professional commitment quite unlike any other. They undertake to maintain the security, values and standards of the nation against external threat. They train for the application of extreme violence in a controlled and humane fashion, whilst accepting the risk of serious injury or death in achievement of the mission. (1995, p. 61)

And more recently, the Defence Force Welfare Association commented on the risks faced by military personnel.

... once the individual has entered military service, the relationship of obedience is established. This relationship necessarily requires the surrender of the individual's inalienable right to liberty, and alienates his right to life and security of the person, by placing responsibility for their preservation in the hands of others. Not every person who renders military service encounters the enemy on the battlefield, but every person who enters military service must accept that he is expected to do so, if ordered, and is trained to do so. (DFWA 2009, pp. 4–5)

Some members of the ADF can be exposed to traumatic events, and can find it difficult to come to terms with actions taken while on service (NMHC 2017). When personnel separate from the ADF they can also experience a loss of identity and separation from social support and they can find it difficult to integrate into civilian life (having to make choices previously made for them by the ADF). These factors can increase the risk of mental health problems, including depression and post-traumatic stress disorder (PTSD). The families of members dealing with mental health problems can also be affected.

The Transition and Wellbeing Research Programme's recent report on Mental Health Prevalence (Van Hooff et al. 2018) of transitioned ADF members (members who left the ADF between 2010 and 2014) found that around one third reported high to very high psychological distress. And around one quarter of transitioned ADF members were found to have met the criteria for PTSD in their lifetime.

The unique features of military service have led to a system separate from, and more generous overall than, the system of workers' compensation and support generally available to civilian workers, including:

- easier access to support (through a lower burden of proof for accepting liability for a condition)
- a higher level of compensation than that available to other Australian Government employees.

Veterans' support

The system of veterans' support includes income support, compensation, health care, rehabilitation and other services. Supports and services are available to people who suffer an injury or illness rendering military service, and to dependants of those whose death is related to service.¹ Some supports are also available to people who serve in the ADF and their families, irrespective of whether they incur an injury or illness.

In 2016-17, DVA spent \$12.1 billion on the veterans' rehabilitation and compensation system, including \$6.4 billion on compensation and support, \$5.3 billion on health and wellbeing, \$47.2 million on commemorations and \$383.4 million on enabling services such as workplace training, financial management and information technology (DVA 2017a).

The legislative framework for veterans' support includes three Acts.

- The *Veterans' Entitlements Act 1986* (Cwlth) (VEA).
- The *Safety, Rehabilitation and Compensation (Defence-Related Claims) Act 1988* (Cwlth) (DRCA).
- The *Military Rehabilitation and Compensation Act 2004* (Cwlth) (MRCA).

The Acts have different eligibility requirements and provide different levels of support to veterans (figure 1).

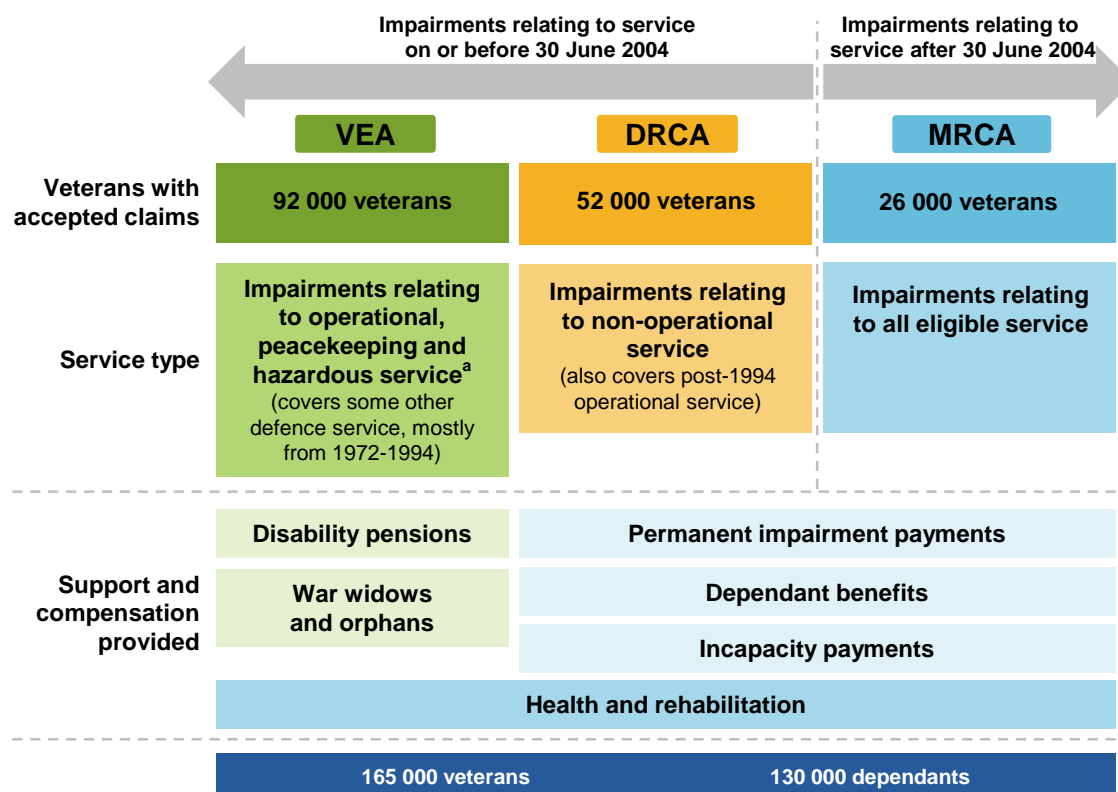
Who are veterans?

The terms of reference for this inquiry ask the Commission to examine the compensation and rehabilitation arrangements for both serving and ex-serving members of the ADF. DVA defines a veteran as anyone who has served at least one day in the ADF, including those with warlike, non-warlike or peacetime service.

Box 2 provides some facts about Australian veterans and DVA clients.

¹ Compensation and support may also be available to others who have been on overseas deployments, such as police deployed on peacekeeping missions.

Figure 1 **Veterans' support**



^a Also includes participants in the British Nuclear Tests conducted between 1952 and 1965.

Source: DVA (2017a).

Veterans' rehabilitation and compensation in the broader context

The veterans' support system needs to be considered in the context of reforms in other areas of service delivery aimed at improving outcomes for service users and achieving better value for taxpayers' money. In the human services sector, there is a move towards providing funding directly to users and allowing them to exercise choice and control over the services they receive. Examples include the National Disability Insurance Scheme and consumer-directed aged care. This approach can give users greater control over their own lives, encourage innovation and efficiencies in service delivery, and focus the attention of providers on the needs of users of their services (PC 2017).

DVA is currently in the process of changing its service delivery model under the banner of 'Veteran Centric Reform'. This includes, among other things, upgrading information technology systems to streamline access to veterans' support, and DVA becoming more proactive in assisting veterans by starting early interventions for high-risk veterans and using data to reach out to veterans who are most likely to need support (DVA 2017b).

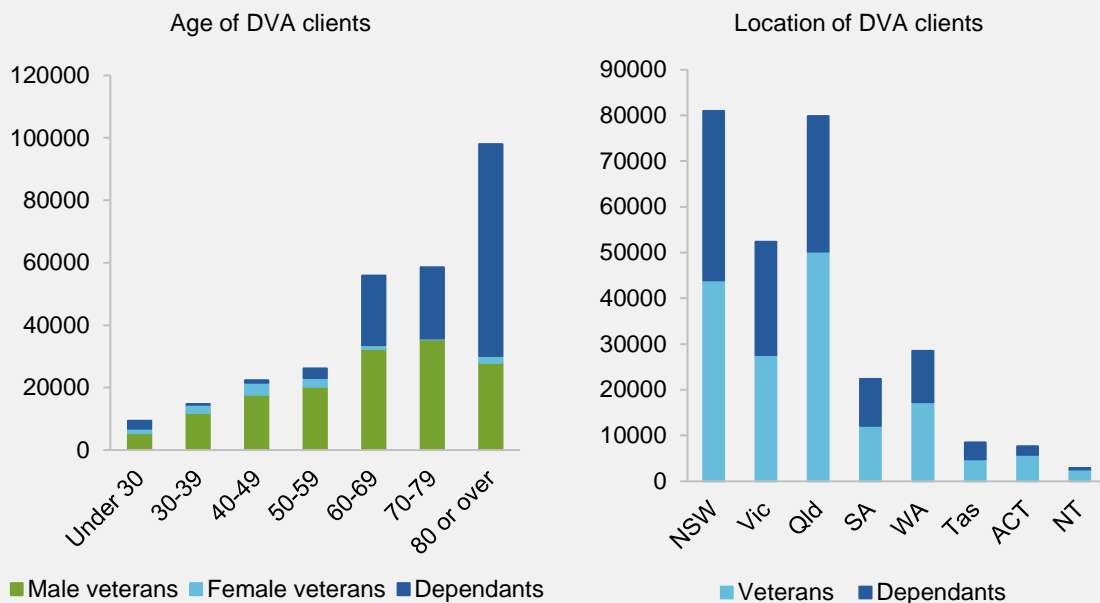
Box 2 Some facts about Australian veterans and DVA clients

Little is known about Australia's total veteran population. According to DVA, there were about 317 000 living veterans at the end of June 2017 and, of these, about:

- 25 000 served in the Second World War
- 43 000 served in the Vietnam War
- 58 000 served in post-1999 conflicts
- 147 000 have peacetime service between 1972 and 1994 (DVA 2017a).

However, DVA's estimate does not include all veterans with peacetime service^a. The RSL (2016) said its best estimate is that there are between 300 000 and 500 000 living veterans in Australia.

The below figures highlight some of the characteristics of DVA's clients (as at December 2017) — DVA has about 165 000 veterans and 130 000 dependants as clients.



^a The estimates do not include veterans with post-1994 service who have not seen operational service. Therefore it is not a complete estimate of living veterans.

Source: Productivity Commission analysis based on unpublished DVA data.

DVA clients cover a range of ages and service experience (box 2). And the profile of veterans has changed with increased military activity since 1999. As DVA said:

As the environment in which the ADF operates continues to change, so too do the needs of current and future veteran cohorts and their families and carers ... The veteran and ex-service community is diverse, with different perspectives and service delivery expectations. DVA clients span all generations and life stages, from veterans and war widows aged over one hundred years to children as young as one year. (2015, p. 10)

Contemporary veterans are more likely (than older veterans) to:

- be women (often with dependent children)
- have been on multiple deployments
- rely on online sources of information
- need to prepare for a working life after service — the median length of time in the military was seven years in 2015 for members in the Navy and Army, and ten years for members of the Air Force (DoD 2016; DVA 2015; Gill, Bain and Seidl 2016).

This inquiry will look at whether the system is fit for purpose, taking into account recent reforms in other service areas and the changing needs of veterans and their families.

3 The Commission’s task and approach

What has the Commission been asked to do?

The Commission has been asked to undertake a comprehensive examination of how the current compensation and rehabilitation system for veterans operates, how it should operate into the future, and whether it is ‘fit for purpose’. In undertaking this task, the Commission is to:

- review the efficiency and effectiveness of the legislative framework, and the effectiveness of governance and service delivery arrangements
- take into account the current environment and challenges faced by veterans, including considering:
 - whether the arrangements reflect best practice, drawing on workers’ compensation arrangements and military compensation schemes in Australia and internationally
 - the use of Statements of Principles (SoPs) — which are legislative instruments used in the MRCA and VEA that set out the requirements for a veteran’s impairment to be linked to their service
 - whether the arrangements deliver compensation and rehabilitation to veterans in a well-targeted, efficient and veteran-centric manner.

The full terms of reference for this inquiry are in attachment A.

The Commission’s approach

Questions at the heart of this inquiry are whether the system of compensation and rehabilitation for veterans is:

- promoting the wellbeing of veterans and the Australian community
- provided in the most effective and efficient way.

The Commission will examine these questions with a view to establishing a sustainable, well-functioning system that is fit for the purpose of delivering compensation, support and services for veterans for the decades ahead. We will also look at how reform can best deliver benefits for veterans while achieving value for money for the Australian community that veterans have served.

The Commission recognises that the Australian Government has a duty of care to veterans for service-related injuries and illnesses (while they are in the service and beyond). The interests of veterans will be best served when the system designed to support them has at its core the wellbeing of veterans and their families.

The Commission will consult widely. It will undertake stakeholder visits, conduct public hearings, and invite submissions and comments from participants. It will also consider evidence provided to previous reviews into veterans' affairs, as well as the findings of both the performance audit of the efficiency of service delivery being undertaken by the Australian National Audit Office (ANAO) and the veterans' advocacy and support services scoping study being led by Mr Robert Cornall.

Because this is a system-wide review, with a focus on identifying reforms that can offer the greatest improvements to the compensation and rehabilitation system for veterans, the Commission will focus on systemic problems and opportunities for reform.

In the context of reviewing the effectiveness of the system's governance and service delivery arrangements, the Commission will look at the activities of DVA and the ADF (including the prevention of service-related injuries, and rehabilitation and transition services), relevant statutory bodies, programmes and initiatives provided by State and Territory Governments and ex-service organisations (ESOs).

How you can contribute to this inquiry

The Commission would like to hear from serving and ex-serving members of the ADF and their families, and other stakeholders about their experiences with the veterans' compensation and rehabilitation system. We want to hear your views on what is working well (and not so well) and what could be improved or changed to make the system 'fit for purpose'.

This issues paper is intended to assist you prepare a submission to this inquiry. It sets out some of the issues and questions the Commission has identified as relevant at this early stage of the inquiry. You do not need to comment on every issue raised in this paper and you are free to raise any other issues or ideas that are relevant to the terms of reference.

Where you identify problems with the system, you should provide some indication of the magnitude of the problems, why change is needed and potential ways the system could be improved (where possible supported with data and other evidence).

Submissions should be provided to the Commission by Monday 2 July 2018.

You can also make a brief comment through the Commission’s website. Comments will not be considered formal submissions, but may be used to inform our report. Attachment B provides further details on how you can make a submission or brief comment.

4 Assessing the veterans’ compensation and rehabilitation system

Understanding the objectives or purpose of the compensation and rehabilitation system is important for determining how well the current system is performing, and what an improved system would look like.

The legislation underpinning veterans’ compensation and rehabilitation does not outline principles on which support should be based. However, past reviews outlined various objectives that Australia’s military repatriation system should aim to achieve for veterans, including that the system should:

- appropriately, adequately and fairly compensate those who have suffered incapacity that could be related to their service — both financially and by the provision of high-quality medical and hospital care
- suitably rehabilitate those who have served, and support them to re-establish themselves into civilian life at the conclusion of their service
- promote health and encourage veterans to take responsibility for self-help measures
- adequately provide for the care of dependants where death has resulted from service
- deliver a mix of services that complement those available to the wider community
- provide incentives to encourage veterans to engage in paid employment
- achieve timeliness, consistency and equity in claims assessment and decision making
- deliver on past commitments made to veterans (Clarke, Riding and Rosalky 2003; Toose 1975).

At the core of these objectives is a system that improves the wellbeing of veterans — particularly those who most need support. However, there are tensions between some of these objectives (such as providing adequate compensation and incentives to return to work), while other objectives are complementary. This has a bearing on what, specifically, the system should seek to achieve and how its performance should be judged. The system should also (as is the case in other areas of public policy) be well-targeted, and designed and delivered in the most effective and efficient way.

QUESTIONS

What should the priority objectives for veterans' support be? Why? What principles should underpin the legislation and administration of the system?

Is the current system upholding these priority objectives? Where are the key deficiencies in the system?

A system to meet the needs of future veterans

Support provided to veterans has evolved in response to a range of factors, including:

- the changing characteristics of service members
- advances in recognising conditions that may arise from service
- developments in methods of, and philosophies for, treatment and aiding transition from service.

For example, the 2004 MRCA has a greater focus on rehabilitating veterans than the 1986 VEA (which focuses on providing disability pensions and other financial support for life), reflecting changing attitudes and best practice over time. Mental health is also now receiving increased attention.

The dynamic nature of veterans' needs implies that the system should have sufficient flexibility to be able to respond to external changes — such as medical advances. A 'veteran-centric' orientation for the system also implies that it should allow supports to be designed to meet the individual's needs.

QUESTIONS

What should the system of veterans' support seek to achieve in the longer term? What factors should be considered when examining what is in the best interest of veterans?

How have veterans' needs and preferences changed over time? How can the system better cater for the changing veteran population and the changing needs of veterans?

How should the nature of military service be recognised?

The need for a separate system of veterans' support has been justified because of the unique nature of military service. The Review of Military Compensation Arrangements, for example, stated that '... due to the unique nature of military service, compensation arrangements separate from the civilian compensation arrangements should be continued' (Campbell 2011a, p. 94). And in part, the unique nature of military service is recognised in the salary and benefits provided to ADF members. This includes a service allowance to

compensate members for factors such as requirements to relocate and be away from home, and allowances for being deployed.

However, the question that needs to be asked is — what is the best way to recognise the needs of veterans in the compensation and other support they receive? As the RSL, in its submission to the Senate inquiry into veterans' suicide, said:

A question that is rarely asked is whether this time, effort and cost results in the best benefit to the veteran concerned? In other words is the award of monetary compensation the optimum outcome or, might something else, rather than a compensation payment, such as comprehensive lifetime health care (i.e. the issue of a gold card) be more appropriate in some circumstances? (2016, p. 12)

For programs delivered to veterans, it needs to be asked how veterans' needs are different and how best, given these differences, supports should be designed and delivered. In some cases, services may be duplicating those available to the general population. This can be costly and lead to little or no benefit for the veteran community. Where the veterans' support system provides different levels of support or sets different hurdles for accessing support to veterans with similar needs but different service histories, the differences need to be justified and understood by veterans.

QUESTIONS

What are the key characteristics of military service that mean veterans need different services or ways of accessing services to those available to the general population? How should these characteristics be recognised in the system of veterans' support?

What is the rationale for providing different levels of compensation to veterans to that offered for other occupations, including people in other high-risk occupations such as emergency services workers? Are there implications for better policy design?

Are differences in support and ways of accessing support based on different types of service (such as operational, peacetime and Reserve service) justified?

The complexity of veterans' support

One of the recurring themes of the Senate inquiry into veterans' suicide was the 'complexity' of the current system — a result of there being three pieces of legislation designed to support veterans, but each with its own eligibility requirements and suite of supports. For example, the Government of South Australia said:

Claims for compensation relating to service in the ADF are assessed under one of a number of different Acts, depending on the time and/or the type of the service, with different liability tests applying. This legislative framework is cumbersome, complex, confusing and difficult to navigate for advocates, DVA staff and members of the serving and ex-serving community. In some circumstances a veteran may have a claim under more than one Act requiring the claimant (or their advocate) to make a number of applications to more than one compensatory scheme. (2016, p. 4)

Because some veterans are eligible for benefits under multiple Acts, and may be eligible to receive different levels of support under each Act for the same injury or illness, it is often unclear to veterans which package of support is most beneficial for them, and what they are entitled to.

There are also complicated adjustments in support between the Acts to prevent claimants being compensated twice for the same impairment. Some veterans may be discouraged from accessing supports by the difficulty of assessing their entitlements, or the necessity of doing so in circumstances of dispute (SFADTRC 2017).

While the VEA and the DRCA only cover injuries or illnesses that occurred prior to 2004, claims under both Acts are continuing, and are likely to continue for some time. And unlike many other workplace compensation schemes, there is generally no limit on the time between an injury occurring and when a claim for acceptance of liability for injury or death can be made. Veterans often do not lodge a claim at the time when an incident that causes an impairment occurs — for example, in 2011, it took on average 17 years from the time a person suffered an impairment for the veteran to lodge a claim (Campbell 2011a).

There may also be other sources of complexity in the system. For example, there are over 30 different benefits and allowances available to veterans, depending on when they served, their type of service, their ages and the extent of their injuries or illnesses. Some also claim that the administration of the system (discussed below) is a source of avoidable complexity and cost.

The Commission would like feedback on where the system is most complex, the consequences (and costs) of this complexity, any beneficial aspects of the policy purpose or design giving rise to this complexity, and how the system might be simplified.

QUESTIONS

What are the sources of complexity in the system of veterans' support? What are the reasons and consequences (costs) of this complexity? What changes could be made to make the system of veterans' support less complex and easier for veterans to navigate?

Can you point to any features or examples in other workers' compensation arrangements and military compensation frameworks (in Australia or overseas), that may be relevant to improving the system of veterans' support?

Is it possible to consolidate the entitlements into one Act? If so, how would it be done? What transitional arrangements would be required? How might these be managed?

Are there approaches, other than grandfathering entitlements, that can preserve outcomes for veterans receiving benefits or who may lodge a claim in the future?

The claims and appeals process

Participants to previous reviews were critical of the claims and appeals process and the administration of the system. Key concerns included delays in claims processing, the quality and consistency of decisions, incorrect payments, and an adversarial approach to decision making (NMHC 2017; SFADTRC 2017). And as the National Mental Health Commission (2017) said, these difficulties can cause aggravation and distress for veterans, potentially worsening a veteran's condition, and their distrust of DVA.

Veterans can be assisted through the claims and appeals process by advocates provided by ESOs. Advocates offer advice to veterans on the support and services available to them, and help them lodge claims and appeals. Advocates receive training and accreditation through DVA.

DVA's Veteran Centric Reform program is intended to improve the administration of the system. However, because it is early days, it remains to be seen what improvements the program will make to the administration of the system.

QUESTIONS

How could the administration of the claims and appeals process be improved to deliver more effective and timely services to veterans in the future?

Are there diverging areas of the claims and appeals process under the different Acts that could be harmonised?

Are there aspects of the claims and appeals process that result in inequitable outcomes for veterans, such as limitations on legal representation?

Will the Veteran Centric Reform program address the problems with the administration of the veterans' support system?

Are advocates effective? How could their use be improved? Are there any lessons that can be drawn from advocates about how individualised support could be best provided to veterans?

SoPs are binding legislative instruments that set out the service-related factors that could cause a medical condition, based on available medical and scientific evidence. For a claim to progress, at least one of the factors listed in the relevant SoP must be proven to have been present during the claimant's service.

The SoPs were introduced into the VEA (and later, the MRCA) in 1994 to create 'a more equitable, more efficient, consistent, and less adversarial system of dealing with claims' (Campbell 2011b, p. 18). However, participants to the 2011 MRCA review said that the use of the SoPs was inflexible, and DVA should have greater discretion to eschew reliance on the SoPs 'where other medical evidence supports a decision favourable to the member or former member' (Campbell 2011b, p. 17). Similar views were expressed during the Senate inquiry into veterans' suicide.

The issue is complicated by the use of two different standards of proof, which apply depending on whether a veteran was injured as a result of peacetime or operational service.

- For warlike and non-warlike service (and their equivalents under the VEA), the ‘reasonable hypothesis’ SoPs apply — these SoPs are based on it being reasonable to hypothesise that the person’s service caused or aggravated their condition.
- For peacetime or other service, the ‘balance of probabilities’ SoPs apply — these SoPs are based on it being more likely than not that the person’s service caused or aggravated their condition. However, Pearce and Holman (1997) suggested that, in reality, this likelihood is far less than 50 per cent, which may imply some ‘benefit of the doubt’ for the veteran.

This leads to two different sets of SoPs, and therefore inconsistencies in determinations between the two groups of veterans.

Since 2016, DVA has streamlined the acceptance of liability for some conditions where most military personnel are likely to meet at least one of the factors in the relevant SoP (Tehan 2016). This may improve the use of the SoPs, and reduce the times taken to process claims going forward.

QUESTIONS

Have the Statements of Principles helped to create a more equitable, efficient and consistent system of support for veterans? Are there ways to improve their use?

What is the rationale for having two different standards of proof for veterans with different types of service? Are there alternatives to recognise different groups of veterans? What would be the costs and benefits of moving to one standard of proof for all veterans (for example, would it make the claims process easier)?

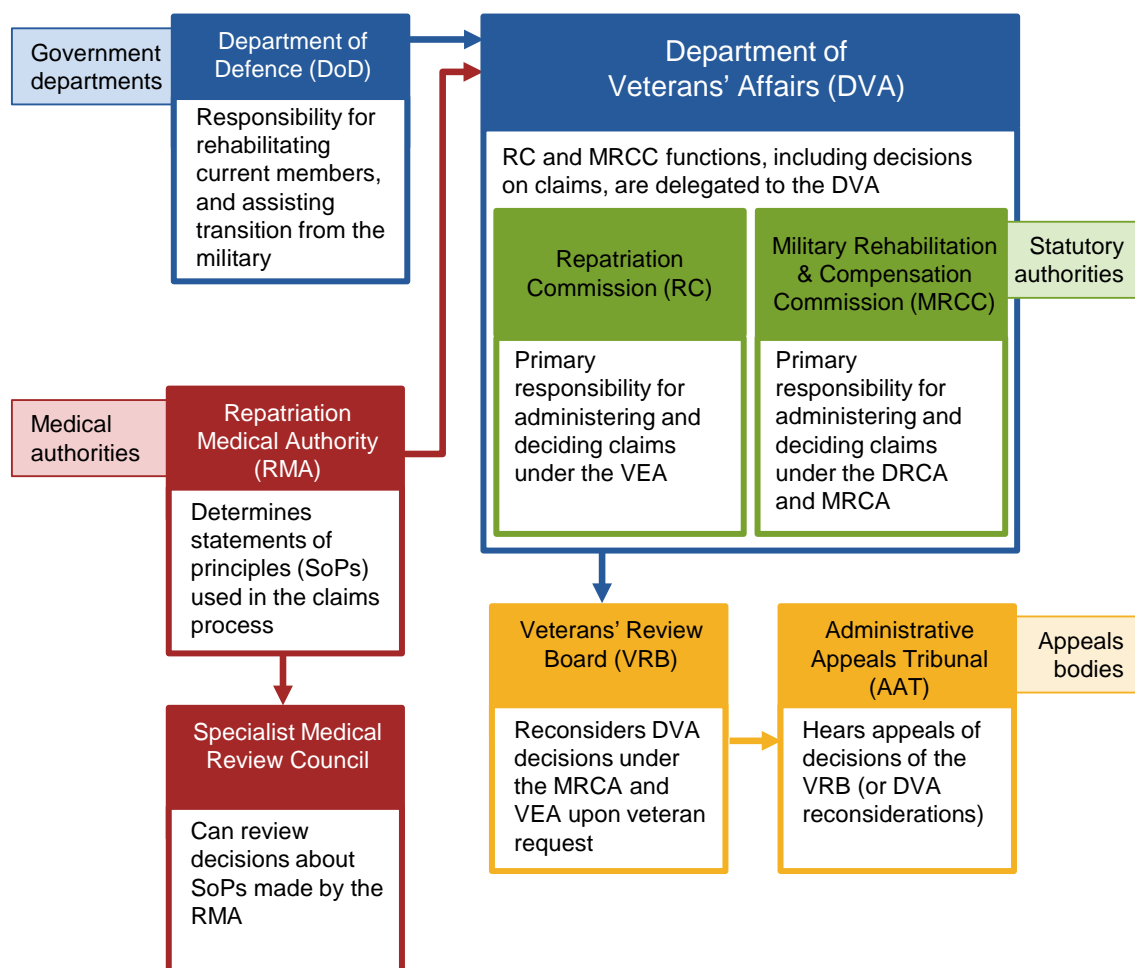
System governance

A number of bodies are directly involved in governing the current system of veterans’ support, including a range of statutory authorities with varying degrees of authority and autonomy, and two Australian Government departments with responsibility for providing and making decisions about veterans’ support (figure 2).

A range of views on the current governance arrangements were put to the Senate inquiry on veterans’ suicide — for example, some participants suggested that:

- the role of DVA needed to be maintained while others suggested that the Department of Human Services could deliver some of DVA’s services (such as the administration of income supports) more efficiently
- the ADF should take on a greater responsibility for injured veterans.

Figure 2 **Governance of veterans' support**



The Commission is seeking views on how well the current governance arrangements for policy development, service delivery and decision review are working. We are also interested in the role of non-government organisations operating in the current system, particularly the ESOs in their functions as veteran advocates, and service providers.

QUESTIONS

Do the governance arrangements for the veterans' support system encourage good decision making — from initial policy development to its administration and review? If not, what changes could be made?

Are incentives sufficiently aligned between agencies, or are there areas of conflict that could be better managed? If there are any incentive problems how can they be resolved?

Is the veterans' support system sufficiently transparent and accountable for both veterans and the community?

What role should ESOs play? Are there systemic areas for improvement in the ESO sector that would enhance veterans' wellbeing?

The role of the Australian Defence Force — minimising risk

The ADF and its members are best placed to minimise the risk of injury, illness or death occurring in the ADF including when members are in combat zones, in warlike operations, when they are training, or on peacetime service. The ADF is also best placed to record the nature and details of incidents and injuries when they occur. Providing this information to DVA can assist with the management of claims and early access to treatment.

A unique aspect of the system of veterans' support is that the employer (the ADF) is not financially responsible for the compensation of its workers. The Tanzer Review of the Military Compensation Scheme said that, if the objective of improving occupational health and safety is to be achieved, a premium-based model should be adopted, noting that:

This would be desirable because the annual cost to Defence would be linked to current injury cost and knowledge of that should have an effect on approaches to safety and injury prevention. (Tanzer 1999, p. 3)

QUESTIONS

What obligations should be placed on the ADF and individual unit commanders to prevent service-related injuries and record incidents and injuries when they occur? To what extent do cultural or other issues create a barrier within the ADF to injury prevention or record-keeping?

The ADF is not financially accountable for the cost of compensation or for the cost of treating service-related injuries and illnesses after a veteran leaves the ADF. Is this a barrier to the ADF having an adequate focus on preventing injury and illnesses and providing early intervention and rehabilitation support? If so, how might this be remedied?

Providing financial compensation for an impairment

Veterans can receive several different types of compensation under the DRCA and the MRCA for impairments relating to service.

- Permanent impairment payments provide payments to cover the non-economic loss — the pain and suffering — associated with an impairment.
- Incapacity payments provide payments for the economic loss of an impairment, based on the veteran's previous income.
- Benefits are available for dependants in the event of a service-related death.

The VEA focuses on paying disability pensions for life in the event of a service-related impairment or death. A special rate disability pension, based on the VEA pension, is also available under the MRCA. Payments may be available under all three Acts to cover certain costs, such as the cost of hiring a person to help the veteran with activities of daily living.

There are similarities between payments under the three Acts, but there are also differences.

- The level of compensation a veteran can receive differs across the Acts. In particular, government-funded superannuation received by a veteran is offset against compensation received under the MRCA and DRCA, but not against compensation received under the VEA. And even within the Acts, compensation can vary for veterans with different types of service — under the MRCA, veterans with an impairment due to peacetime service can receive less permanent impairment compensation than a veteran with the same impairment from warlike or non-warlike service.
- Eligibility for payments and how payments are calculated differs between the Acts. For example, to receive permanent impairment compensation under the MRCA and DRCA, an impairment must be permanent and stable — this is not the case under the VEA. In addition, a number of court cases, including the Fellowes case², have influenced how multiple impairments are assessed under the DRCA, but not influenced processes under the MRCA or VEA.
- Some payments or options are available under some Acts but not others. For example, under the MRCA, permanent impairment payments can be paid as a lump sum or weekly payment, whereas under the DRCA permanent impairment payments must be made as a lump sum. Incapacity payments based on previous income are not available under the VEA — veterans with incapacity for work under this Act must take a disability pension at a set rate.

The Commission would like feedback on whether these different arrangements can be streamlined, which provisions provide adequate, fair and efficient compensation for veterans, and how these provisions could be improved. Participants should consider the whole compensation package received by veterans when providing their responses.

Compensation schemes should provide incentives for workers to rehabilitate and return to work where feasible. Returning to work can improve the recovery and health of the worker, but income replacement schemes can dampen the incentive to return to work. Most workers' compensation schemes (including those provided to veterans) have safeguards in place to minimise disincentives to work.

QUESTIONS

Is the package of compensation received by veterans adequate, fair and efficient? If not, where are the key shortcomings, and how should these be addressed?

Is access to compensation benefits fair and timely? In particular, are there challenges associated with the requirements in the MRCA and DRCA that impairments be permanent and stable to receive permanent impairment compensation? How could these provisions be improved?

² Fellowes v Military Rehabilitation and Compensation Commission [2009] HCA 38.

QUESTIONS

Is there scope to better align the compensation received under the VEA, MRCA and DRCA? In particular, could the provisions for permanent impairment compensation and incapacity payments in the MRCA and DRCA be made consistent?

Are there complications caused by the interaction of compensation with military superannuation? How could these be addressed?

What is the rationale for different levels of compensation to veterans with different types of service in the MRCA? Should these differences continue?

For those veterans who receive compensation, are there adequate incentives to rehabilitate or return to work? Are there examples of other compensation schemes that provide support for injured workers and successfully create incentives to rehabilitate or return to work?

Helping people to transition from the ADF

Transition services to help veterans adjust to civilian life have recently come under the spotlight with a number of studies highlighting the pressures faced by people as they leave the ADF. For example, the National Mental Health Commission (2017) highlighted many of the pressures faced by transitioning military personnel, including the psychological transition from being a member of the ADF to becoming a civilian, and noted that some personnel are institutionalised or dependent on the ADF and fear returning to civilian life. Phoenix Australia (2016, p. 3) noted that ‘the post-discharge period has been recognised as a period of elevated risk for mental health problems and suicidality’.

Some members may also require rehabilitation for an impairment when they leave the defence force. Rehabilitation services can help people recover physically and psychologically, rebuild social connectedness, and assist them to return to work where possible (DVA 2016).

In practice, assessing the effectiveness of transition and rehabilitation services is difficult. The ANAO (2016) noted that DVA keeps no comprehensive performance data to indicate whether rehabilitation services are meeting the needs of its clients, and that the ADF and DVA had, to that date, not adequately assessed the effectiveness of transition services. This makes it difficult to determine whether the current mix of rehabilitation and transition services is meeting the needs of users.

The ADF has responsibility for transition and rehabilitation services for its members, and for providing some transition services following discharge. DVA has responsibility post discharge once it has accepted liability for a condition. Some participants to the Senate inquiry into veterans’ suicide said that these arrangements can affect continuity of care, as members may have to change providers upon discharge.

There can also be gaps in care following discharge. DVA is trialling ‘accelerated access to rehabilitation’, but as a general rule does not provide rehabilitation services until liability has been accepted for a condition. Members discharged from the ADF prior to their claim being settled may be unable to access rehabilitation services in the interim.

Many veterans will need to find civilian employment when they leave the ADF, and this can be challenging for some. Recent efforts to improve employment opportunities for veterans have centred on the Prime Minister’s Veterans’ Employment Program. This program seeks to raise awareness with employers about the skills and experience of former ADF personnel.

QUESTIONS

Are transition and rehabilitation services meeting the needs of veterans and their families? Are veterans getting access to the services they need when they need them? What could be done to improve the timeliness of transition and rehabilitation services, and the coordination of services? What changes could be made to make it easier for ADF personnel to transition to civilian life and to find civilian employment that matches their skills and potential?

Veterans who are medically discharged are generally in higher needs categories than people who access other rehabilitation and compensation schemes, and have exhausted options for return to work in the ADF. How should this be reflected in the design of rehabilitation services for veterans?

How should the effectiveness of transition and rehabilitation services be measured? What evidence is currently available on the effectiveness of transition and rehabilitation services? How can the service system be improved?

In some countries, rehabilitation services are provided to the families of severely injured and deceased veterans. Is there a rationale for providing such services in Australia? If so, what evidence is there on the effectiveness of these services?

Income support and health care

Veterans can also be eligible for additional allowances and benefits from DVA (aside from compensation received under the three Acts for an impairment). For example:

- veterans with eligible service can receive the service pension. This largely replicates the age and disability pensions available to the general population, but is provided through DVA and is made available at an earlier age
- veterans and their dependants can receive allowances for education, modified vehicles, clothing and home loan subsidies.

Of the \$5.3 billion DVA spent on health care in 2016-17, the majority was for treatment received via a gold or white card (DVA provided around 135 000 gold health cards and 59 000 white health cards in that year) (DVA 2017a). The gold card is available to veterans

over 70 years of age with qualifying service, some veterans with claims under the MRCA and VEA, and some dependants of deceased veterans. Gold card holders are eligible for treatment and care for all health conditions (including health care unrelated to impairments suffered as a result of service). The white card is available to all veterans and provides health care for conditions for which DVA has accepted liability, as well as some non-liability health coverage.

The allowances and benefits that veterans and their dependants receive have evolved over time. For example, DVA recently extended treatment of all mental health conditions under new non-liability health care arrangements (mental health conditions do not need to be related to service). Other allowances and benefits pre-date similar services being made available to the general population — for example, the gold card pre-dates free or subsidised health care through Medicare. In cases such as the service pension, the benefit largely replicates a benefit available to the general population.

QUESTIONS

Is health care for veterans, including through the gold and white cards, provided in an effective and efficient manner? Has the non-liability coverage of mental health through the white card been beneficial?

Is there scope to simplify the range of benefits available, and how they are administered? Are all of the payments available necessary and beneficial? Are they achieving value for money outcomes?

What are the benefits of having generally available income support payments also available to veterans through DVA? What are the costs?

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Attachment A: Terms of reference

INQUIRY INTO VETERANS' AFFAIRS' LEGISLATIVE FRAMEWORK AND SUPPORTING ARCHITECTURE FOR COMPENSATION AND REHABILITATION FOR VETERANS (SERVING AND EX-SERVING AUSTRALIAN DEFENCE FORCE MEMBERS)

I, the Hon Scott Morrison MP, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into the system of compensation and rehabilitation for veterans (Serving and Ex-serving Australian Defence Force members).

Background

The recently released report of the Senate Foreign Affairs, Defence and Trade References Committee into Suicide by Veterans and Ex-Service Personnel, *The Constant Battle: Suicide by Veterans* (Senate Inquiry) documents the complexity in the overall legislative framework for compensation and rehabilitation for veterans. Submissions to the review called for an inquiry into the interplay between the various acts, including the use of the Statements of Principles and the effectiveness of the administration by the Department of Veterans' Affairs.

There have been many major reviews of veterans' legislation and programs, particularly its compensation program, over the last 40 plus years. Consistent with observations made by the Senate Foreign Affairs, Defence and Trade References Committee, the Government is now seeking a comprehensive examination of how the current compensation and rehabilitation system operates and should operate into the future.

Scope

This Productivity Commission inquiry will examine whether the system of compensation and rehabilitation for veterans (Serving and Ex-serving Australian Defence Force members) is fit for purpose now and into the future. In undertaking the inquiry, the Productivity Commission should review the efficiency and effectiveness of the legislative framework for compensation and rehabilitation of ex-service personnel and veterans, and assess opportunities for simplification.

This framework includes the *Veterans' Entitlements Act 1986*, the *Military Rehabilitation and Compensation Act 2004* and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*. The Productivity Commission should consider the interplay between the various pieces of legislation. It should also examine the effectiveness of the governance, administrative and service delivery arrangements that support the legislation (the 'supporting architecture').

The Productivity Commission should have regard to the current environment and challenges faced by veterans, including but not limited to:

- whether the arrangements reflect contemporary best practice, drawing on experiences of Australian workers' compensation arrangements and military compensation frameworks in other similar jurisdictions (local and international);
- the use of the Statements of Principles as a means to contribute to consistent decision-making based on sound medical-scientific evidence; and
- whether the legislative framework and supporting architecture delivers compensation and rehabilitation to veterans in a well targeted, efficient and veteran-centric manner.

The Productivity Commission will also consider issues raised in previous reviews.

Process

The Productivity Commission should undertake appropriate public consultation, including holding hearings (including in regional Australia), inviting public submissions and releasing a draft report to the public.

The final report should be provided to Government within 15 months.

The Hon Scott Morrison MP
Treasurer

[Received 27 March 2018]

Attachment B: How to make a submission or comment

How to prepare a submission

Submissions may range from a short letter outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

Generally

- Each submission, except for any attachment supplied in confidence, will be published on the Commission’s website shortly after receipt, and will remain there indefinitely as a public document.
- The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope for the inquiry.

Copyright

- Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.
- Do not send us material for which you are not the copyright owner — such as newspaper articles — you should just reference or link to this material in your submission.

In confidence material

- This is a public review and all submissions should be provided as public documents that can be placed on the Commission’s website for others to read and comment on. However, information which is of a confidential nature or which is submitted in confidence can be treated as such by the Commission, provided the cause for such treatment is shown.
- The Commission may also request a non-confidential summary of the confidential material it is given, or the reasons why a summary cannot be provided.
- Material supplied in confidence should be clearly marked ‘IN CONFIDENCE’ and be in a separate attachment to non-confidential material.
- You are encouraged to contact the Commission for further information and advice before submitting such material.

Privacy

- For privacy reasons, all **personal** details (e.g. home and email address, signatures, phone, mobile and fax numbers) will be removed before they are published on the website. Please do not provide these details unless necessary.

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- You may wish to remain anonymous or use a pseudonym. Please note that, if you choose to remain anonymous or use a pseudonym, the Commission may place less weight on your submission.

Technical tips

- The Commission prefers to receive submissions as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software. You may wish to research the Internet on how to make your documents more accessible or for the more technical, follow advice from Web Content Accessibility Guidelines (WCAG) 2.0<<http://www.w3.org/TR/WCAG20/>>.
- Do not send password protected files.
- Track changes, editing marks, hidden text and internal links should be removed from submissions.
- To minimise linking problems, type the full web address (for example, <http://www.referred-website.com/folder/file-name.html>).

How to lodge a submission

Submissions should be lodged using the online form on the Commission's website. Submissions lodged by post should be accompanied by a submission cover sheet.

Online*	http://www.pc.gov.au/inquiries/current/veterans/make-submission
Post*	Veterans' Compensation and Rehabilitation Inquiry Productivity Commission GPO Box 1428 Canberra City ACT 2604

* If you do not receive notification of receipt of your submission to the Commission, please contact the Administrative Officer.

Due date for submissions

Please send submissions to the Commission by **2 July 2018**.

How to make a brief comment

Participants can also provide brief comments. Brief comments made are not considered formal submissions, though comments may be used by the Commission to inform its report.

Brief comments may be published anonymously on the Commission's website, unless you indicate that you do not want the comment to be published. The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope of the inquiry.

Brief comments should be lodged using the online form on the Commission's website located at: www.pc.gov.au/inquiries/current/veterans/comment.