



**VIETNAM VETERANS ASSOCIATION OF AUSTRALIA  
QUEENSLAND BRANCH  
HERVEY BAY CITY SUB-BRANCH INC**

*"Honour the dead but fight like hell for the living"*

**PO Box 3243  
PIALBA QLD 4655**

**Telephone: (07) 41283759  
A/H (07) 41289876**

**Productivity Commission 2018, A Better Way to Support Veterans, Draft Report, Canberra.**

Submission provided by Thomas JEHN OAM JP (Qual) on behalf of the Veterans Advice & Social Centre Hervey Bay.

Thank you for allowing input to this inquiry.

My experience as an advocate/pension officer dates back to 1987 in NSW and more recently in Queensland for the past 20 years. I have been the practicing advocate for Hervey Bay Veterans Advice & Social Centre for approximately 15 years.

The Veterans Advice & Social Centre is located at Freedom Park, Main St Pialba and is manned by volunteers where you may drop in for a chat, a cup of coffee, or receive advice relating to pension and welfare matters from our experienced advocates, pensions and welfare officers, we also have 3 Qualified JP's.

The Centre is managed by the VVAA Hervey Bay City Sub Branch, a self-funding, non-profit association that uses only unpaid volunteers, (Our volunteers do not accept "Honorariums").

Our sole interest is the welfare of veterans and their families and assisting them, their dependents and descendants in all matters relating to their health, welfare and well-being with many younger veterans requesting our assistance with their dealings with DVA becoming more involved in our activities.

The Hervey Bay Veterans Advice & Social Centre has provided advocacy, pension and welfare assistance to veterans from all conflicts and their dependents and descendants at our Drop-In-Centre since opening our doors in 2003.

Our committed pension/welfare team provide ongoing advice and assistance directly to Veterans and their families in relation to a wide range of welfare matters including emotional, social and emergency support as well as the preparation and submission of primary claims for disability pensions, and/or applications for increases to existing disability pensions under The Military, Rehabilitation and Compensation Act 2004, Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 and Veterans' Entitlements Act 1986. We also assist veterans with no Qualifying Service with their Centrelink applications.

Our Advocates represent veterans and family of veterans at the Veterans Review Board and Administrative Appeals Tribunal on a regular basis and we have a close working rapport with the Department of Veterans' Affairs, the Veterans Review Board and the AAT.

Our advocates have been actively mentoring younger veterans' who regularly volunteer at the Veterans Centre in a non-threatening alcohol free and gambling free environment within the veteran community with the ongoing reassurance and support of fellow veterans.

This involvement at the veterans centre has encouraged other young veterans from within the local area to involve not only themselves but their families in an alcohol and gamble free non-threatening environment.

These veterans and their families have created a space where they now confide in one and other, carry out welfare, pension and advocacy activities as well as establishing their own association obtaining DVA BEST

funding and are actively assisting and representing disabled veterans. All practicing advocates are mentored and when required are monitored by a clinical psychologist.

### Summery

1. This Productivity Commission 2018, A Better Way to Support Veterans, Draft Report appears to be a highly emotional matter that has been the subject of many government inquiries over the years.
2. With current legislation effecting today's veterans many complex issues under various acts seem to subject to discussion.
3. This includes the VEA, including qualifying service, special rate of pension, GARP, allowances, standards of proof and review of decisions; annotations and commentary on issues under the MRCA, including liability for compensation, incapacity, permanent impairment, death benefits, and transitional arrangements for previous schemes.
4. The terms of reference also appear to include the interaction between the VEA and the MRCA and SRCA with brief history of the VEA and of the MRCA and DRCA and treatment cards as background information.
5. The basis of this latest inquiry mainly relates to authority under The Military, Rehabilitation and Compensation Act 2004, Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 and Veterans' Entitlements Act 1986.
6. I am trying to get my head around the reason why the Productivity Commission appears to be recommending abolishing the Department of Veteran Affairs and replacing it with a system modelled on workers compensation with the regulatory administration being the responsibility of Defence.
7. The Department of Veterans' Affairs (DVA), known before 1976 as the Repatriation Department (1917–74 and 1975–76) and Department of Repatriation and Compensation (1974–75), has had the responsibility for functions such as the provision of repatriation services, medical and hospital treatment, and payment of pensions and allowances to eligible veterans and dependents for many years. Even though at times DVA may seem to be the adversary, most DVA delegates have gained the respect of practicing advocates within the veteran community.
8. I am fully aware the objective of the Productivity Commission is to focus on the lifetime wellbeing of veterans, but it is completely at odds with the reality of how Veterans entitlement/compensation schemes is applied or how it actually operates.
9. In the 2016–17 Budget, the Government allocated \$2.7 million to the national rollout, which was to allow the introduction of a new VRB case management system to streamline processes, reduce backlogs and enable veterans to lodge and manage appeals and monitor progress in real-time.
10. At that time the aim was for veterans to have a simpler appeal system that still affords them access to legal assistance under amendments to the Military Rehabilitation and Compensation Act 2004 (MRCA) that was duly passed by the Senate. The intent of the amendments was to provide a single pathway for veterans covered by the MRCA to appeal decisions, first through the Veterans' Review Board (VRB) — an independent statutory body comprising civilian and former military personnel — then, if necessary, the Administrative Appeals Tribunal (AAT).
11. In the event that an appeal still proceeds to the AAT, the MRCA will allow the award of costs in certain circumstances—an amendment that specifically addresses concerns raised during previous consultations with the then Minister. The single path was to bring the MRCA appeals process into

- line with the Veterans' Entitlements Act 1986 appeals process. It applied to all MRCA primary decisions made on or after 1 January 2017.
12. The veteran community is well aware most compensation schemes are designed to get injured workers off their books as quickly as possible, being more concerned with fixing costs than the rehabilitation of people. This has been demonstrated under the MRCA rehabilitation and transition procedures currently in place and the quality of contracted rehabilitation service providers who are responsible for coordinating assessments, working with the veteran to develop their rehabilitation plan, managing the rehabilitation plan and the accessing of all approved services. It must be noted many of these Rehab Providers commissioned by DVA have little, or no knowledge of military life or culture.
  13. I must also mention the mental health challenges faced by many veterans that are especially vulnerable to this kind of approach and I do not feel it is in the public interest to disband DVA, or to further outsource veteran responsibilities to Defence or any other organisation. We must always remember past Veteran legislation has been beneficial to disabled veterans and had never been considered a form of compensation until recent times resulting in rehabilitation also being factored into the legislation.
  14. At present the goals and activities within a rehabilitation plan can be grouped into three broad categories –medical management, psychosocial (social support), and vocational. The rehabilitation plan may include activities from a combination of these categories, or a single category, depending on individual needs and goals.
  15. Once DVA has accepted liability for accepted conditions under the DRCA or the MRCA, DVA will meet the full reasonable costs, approved as part of the veterans' rehabilitation program.
  16. While the veteran is participating in a rehabilitation program they may be entitled to receive incapacity payments if unable to work,
  17. Various Acts administered by DVA include:-
    - The Australian Soldiers' Repatriation Act 1920 (later renamed the Repatriation Act 1920),
    - Veterans' Entitlements Act 1986 (VEA),
    - Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA),
    - Military Compensation Act 1994, and the current
    - Military Rehabilitation and Compensation Act 2004 (MRCA)
  18. When introduced the MRCA compensation legislation was said to be designed to cover the whole spectrum of military service and covers defence service on or after 1 July 2004. The SRCA and VEA covered service before 1 July 2004. During the 1980s and early 1990s, significant changes were made in the standard of proof, pension eligibility, and compensation arrangements for peacetime service.
  19. In the context of the proposed veteran-centric reforms, these veterans' entitlement matters presently enable the Department of Defence to:-
    - make decisions and determinations,
    - exercise powers or comply with obligations, or
    - do anything else related to making decisions and determinations, or exercising powers or complying with obligations relating to the above acts.
  20. Future clarification and liaison with Defence will be required relating to determining administration/application of provisions under various Veterans' Acts and will once again be subject to future recommendations of amendments to the various Act's being enacted.
  21. This should be looked at with great care due to the vulnerability of many Australian veterans during any process relating to a veterans disability claims, and this additional vulnerability must not be acceptable and should not happen.

22. I am hesitant without knowing the full submission details and prior discussions whether it would be beneficial to the veteran if their initial compensation claims and the obligatory application of relevant legislation and Statement of Principles were conducted by persons other than by DVA delegates to expedite existing processes. In fact I very much doubt if such claims would be expedited if placed under Defence.
23. I am also concerned the possible outsourcing of many other DVA services to other organisations would only result in an additional backlog of the workload such as what has happened within Centrelink, where clients need to wait for extensive periods to have their matter resolved or attended to.
24. It must again be stressed many veterans have special needs, such as those with psychiatric disorders and personality difficulties that are often enhanced by the claims process and their interaction with DVA.
25. With this in mind, I am more than a little concerned about the examples of the circumstances in which it might be appropriate for the DVA to disclose personal information about a case or class of cases without the veterans' consent to their employers (being the Department of Defence) to assess their claims or outsource to other external organisations.
26. As to determining veterans' claims. It is presently departmental policy that decision makers call for additional questionnaires from the veteran to verify factors of the SoP's have been met, this is even after the veteran has made full disclosure of his/her duties in the ADF in their initial application.
27. Defence already provides supporting service and medical documents detailing the veterans' duties to DVA, and it is recommended for this reason similar approval remain for restricted information sharing with DVA.
28. It is also recommended for Defence and DVA to align existing quantified information sharing provisions as concerns have been expressed by many serving members that if the ADF is notified of serving members' who have submitted claims to DVA, it should be done in a way that the information is kept confidential on a need to know basis, and in such a manner to ensure the claimants military career, including training courses, promotion or deployment would not be adversely effected and the veteran would not be placed in any fear of denigration from co-workers.
29. Younger veterans have also stated their unease about the sharing of the degree of impairment, any amount of compensation paid to the claimant and that data shared or forwarded to Defence should only reflect whether liability is accepted or not accepted under the appropriate act.
30. Eligible veterans' have a right to privacy, especially if the changes would align information-sharing provisions under the Department of Veterans' Affairs with those of Defence without the veterans' consent.
31. At present certain safeguards relating to the release of information include:-
  - the Minister for Veterans' Affairs sets the rules for how the secretary exercises his powers
  - only the Minister for Veterans' Affairs can set these rules
  - only the secretary can exercise the powers
  - before disclosing any information, the secretary must notify the person in writing, give the person a reasonable opportunity to make written comments on the proposed disclosure, and the secretary must consider these comments, and
  - if the secretary fails to comply with the requirements before disclosing personal information, they will commit an offence that is punishable by a fine of 60 penalty units.

32. It is submitted that this direction to only apply under exceptional circumstances if in the opinion of the Secretary there fear of loss of life, property or personal injury, and then only to be used as a last resort.
33. I now refer to Transition management as this may be one area where Defence may take an active role. Certain issues, as the role of the case manager is to assist the person in the transition to civilian life, including advising the person about entitlements and services for which he/she may be eligible and about how to obtain access to such entitlements and services as a member or former member of the ADF.
34. On Wednesday, 30 May 2018, the Joint Standing Committee on Foreign Affairs, Defence and Trade resolved to inquire into and report on Transition from the ADF. DVA and Defence have since made a joint submission to the Joint Standing Committee.
35. The Transition Taskforce was established by the Australian Government to facilitate improved transition and ensure that current and future veterans, and their families, have the assistance and support that they need to transition effectively. The Improving the Transition Experience report was co-chaired by Department of Veterans' Affairs (DVA) and the Department of Defence (Defence) and was made up of current and former members of the Australian Defence Force as well as representatives from key areas within DVA, Defence and the Commonwealth Superannuation Corporation (CSC) to specifically examine aspects relating to the discharge and transition to civilian life of men and women who have served in the ADF.
36. The Taskforce recommendations include:-
- The focus of all transition related processes, services and support delivered by government should be centred on the needs of the person and their families.
  - The Departments of Defence, DVA and CSC should investigate the intelligent use of data to track outcomes for separating members and allow the system to respond to emerging needs.
  - Defence, DVA and CSC should trial an integrated approach to transition service delivery that provides, where appropriate, proactive assistance to the person and their family throughout their transition journey.
  - Defence, DVA and CSC should reimagine how transition related information and tools can be brought together and delivered in ways that are effective and engaging.
  - Defence, DVA and CSC should address privacy based barriers to enable proactive engagement with family members of current and former serving ADF members.
  - Defence and DVA should enhance their career assistance and development capabilities with a view to increasing the probability of current and former serving members securing employment, where appropriate.
  - Defence should consider ways in which transition can be better supported within the services including enhancing acknowledgement of (and value placed in) a member's service and contribution.
37. Also mentioned in the Transition Taskforce report was the following topics:-
- the barriers that prevent Ex-Service Organisations from effectively engaging with ADF members,
  - Defence and DVA to provide more effective support to ADF Personnel as they transition out of service.
  - The model of mental health care while in ADF service and through the transition period to DVA
  - And the efficacy of whole of government support to facilitate the effective transition to employment in civilian life of men and women who have served in the ADF.
38. Mental Health: VVCS (Open Arms) provides free and confidential, nationwide counselling and support for war and service-related mental health conditions, such as posttraumatic stress disorder

- (PTSD), anxiety, depression, sleep disturbance and anger. Support is also available for relationship and family matters that can arise due to the unique nature of the military lifestyle.
39. VVCS (Open Arms) clinical information should not be released to the Department of Veterans' Affairs, other government agencies or external parties without the veterans consent, unless there are exceptional circumstances where information may have to be released in accordance with the law.
  40. This would only occur where the veteran's safety or the safety of others is at serious risk, in serious criminal matters, or in response to a court direction. If the veteran is a member of the Australian Defence Force (ADF) and has been referred through the ADF Agreement for Services, VVCS (Open Arms) is required to provide periodic reports regarding treatment to the ADF Referring Authority.
  41. It is therefore recommended any reporting relating to public interest disclosures be similar to those already in place by the VVCS (Open Arms) relating to public safety and the veteran placed under the supervision of a medical specialist if necessary.
  42. Assessment of claims: I agree with comments stating the existing policies directing processing and assessing of service injuries or diseases are cumbersome. I have no problem with any streamlining of the process if there is evidence that some SoP factors can be met simply because an ADF member has performed their regular duties to assess a possible causal link to the veterans' relevant service.
  43. At present it is also current policy for the decision maker to call for specialist medical reports and to require many claimant reports and questionnaires to be completed by the veteran, even though supporting information had previously been submitted to the decision maker supporting the veterans' contentions.
  44. The MRCA introduced the requirement for the MRCC to provide the ADF with the outcome of claims from serving members. This is also regarded as good policy for workforce and safety management within the ADF.
  45. Defence has advised that current serving members are given greater encouragement to report incidents and to lodge claims for compensation during their career, rather than at discharge. If correct, this is a better practice for workplace safety management purposes and may also result in more timely provision of evidence supporting a compensation claim and strengthens the argument for approval of information sharing with DVA and Defence to align quantified information sharing provisions.
  46. Unfortunately the dilemma faced by the productivity commission is the result of various well intentioned adversarial/ unsympathetic Veterans' Acts being passed in parliament over the years based on a civilian style compensation system that is not meeting the veterans' needs and has resulted in many destitute and homeless Australian veterans.
  47. Many solicitors are declining legal aid assistance for veterans with appeals under the VEA and are only prepared to represent veterans on a no win no fee basis for lump sum compensation payments under the MRCA and DRCA, being similar to the Federal Comcare scheme.
  48. Gold Card: Over the years I have seen a growing public awareness of the nature and scale of mental health problems within the veteran community. This includes the Impact wartime deployments has on Military Families and their children. The veterans' family often suffers months of parental aggression related to deployment issues and ongoing family distress that are high risk factors for child psychological distress. It is normally up to the veterans' family to pick up the pieces and provide support to the veteran (and the children) and often the wife does not obtain support until she is at breaking point, often resulting in family breakups and at times veteran suicide.
  49. The Repatriation Commission is responsible under the Veterans' Entitlements Act 1986 for granting pensions, allowances and other benefits, and providing treatment and other services through its hospitals

and institutions or through community facilities to veterans, their dependants and other eligible persons. The Commission also provides advice to the Minister on matters relating to the Act's operation and, subject to the minister's control, generally administers the Act, but this does not include the veterans' wife and family during this process.

50. MRCA clients who hold a White Card are entitled to treatment for their compensable injury or disease only, by medical and allied health providers who agree to accept the card.
51. MRCA clients who hold a Gold Card are entitled to treatment for any medical condition by medical and allied health providers who agree to accept the card.
52. The various types of medical and allied health services which DVA may provide under SRCA and MRCA will depend on an individual's needs and the recommendations of the treating practitioner and in some cases, the treating provider will need to obtain prior approval for treatment.
53. Treatment may also be provided under MRCA for partners and dependent children of deceased veterans who are eligible for compensation.
54. Treatment may be provided for veterans and former members of the ADF with either warlike or non-warlike service who have been diagnosed with the following conditions, even when not caused by service: malignant cancer; post traumatic stress disorder; anxiety and depressive disorders; or pulmonary tuberculosis.
55. Statistics show that over time, the number of war veterans and widows needing care at the hospital will decline as age takes its toll.
56. Unfortunately many of our younger veterans now do not have the luxury of attending a Repatriation Hospital whose main link today with the veteran community are permanent memorials at hospitals such as Greenslopes to host Anzac Day dawn ceremonies and other significant days of remembrance.
57. Today, everyone attending Greenslopes Private Hospital is aware of the special place the hospital has in personal and national histories including the stories of courage, endurance, and service, but unfortunately does not seem to be available to our younger veterans.

Thank you for the opportunity to contribute to this submission on behalf of the Hervey Bay Veterans Advice & Social Centre.

Kind regards.

Tom Jehn OAM JP(Qual)  
Pension Advocate  
Veterans Advice & Social Centre

9<sup>th</sup> February 2019