

"The willingness of future generations to serve in our military will be directly dependent upon how we have treated those who have served in the past."

George Washington.

Productivity Commission into Department of Veteran Affairs.

I respectfully make this submission in the hope that it will lead to effective procedural and cultural change in the way Department of Veteran Affairs conducts its role of looking after Veterans.

The challenge now exists for the Australian Government, being that if the learnings gathered from this enquiry turn into more talk fests with nothing done / achieved, then they would again be frustrating Veterans through dithering and inaction wasting scarce time and financial resources. (Think of the Henry Review into taxation and how the Labor government only adopted three recommendations).

Consistent with the statement, 'Saluting their Service', it would be appropriate that DVA refer to recipients of DVA services as Veterans, in line with RSL policy and recognising that Veterans are more than just a 'client'.

It would be appropriate for DVA to change the way they apply the current standard of proof being the *balance of probabilities*. Historically the standard was always that a fact or issue was more likely to be true than not; numerically 51%. However, in part due to the Briginshaw case of 1938, where the judge rightly reasoned that a higher standard of proof was necessary to ensure a fair outcome, the DVA takes it a step further and increases the standard of proof to *beyond a reasonable doubt*. I make this claim arising from personal experiences and from what I have been told by other Veterans.

As a result, the Department contributes to the stress, indignity and suicide rates by making processes overly onerous and bureaucratic and totally lacking in empathy for the plight of the injured veteran.

A fairer way forward would be that it be accepted that the Veteran is telling the truth, supported by ADF medical file records corroborated with current medical data. Thus the DVA will be bound to accept that a Veteran is honest in their dealings with the DVA unless proven otherwise. Assurance would not be difficult to obtain, being through the use of profiling and data matching with other government agencies.

This significant change in DVA practices would be appropriate, given that DVA is dealing with Veterans who have been entrusted with equipment worth millions of dollars or have been involved in decision-making involving health, safety and well-being of other veterans either under command or as peers, Many Veterans have been involved in incidents that affect the reputation of Australia or the taking of human life therefore it would be reasonable to expect that a Veteran will be truthful in dealings with DVA.

The establishment of this principle then removes the need to subject the Veteran to scrutiny by retired and elderly doctors in so-called independent medical examinations. The examinations carry a high risk of bias because some of the doctors write reports to supplement their incomes in retirement and the perception arises that who pays the piper calls the tune. In other words, the doctor writes what they perceive the Department wants to read in a similar manner as the reports provided to the insurance companies, which are often a major source of inequity. It is almost impossible to explain your situation to a stranger who jots the information on paper in a limited timeframe and often the important detail of how your condition affects your life is ignored.

There is a high risk of bias in DVA relying on these reports because other evidence easily obtained from a Veteran's treating medical professional is ignored or not given the weighting that the strength of that evidence would provide.

Australian public service agencies are bound to make decisions based on principles of natural justice, being that real evidence is required free from bias with a right of review or reply.

Many benefits would arise from this change in policy, being that the claims process can be expedited, resulting in a saving of administrative and external service provider costs. The claim process can be simplified in that the Veteran makes the declaration that the claim is true and correct and understands that there are consequences for making false and misleading statements and that attempts to defraud the Commonwealth is a crime.

DVA could appoint their officers to act as Veteran relationship managers, ideally staff who themselves identify as veterans so that Veterans can speak to someone in DVA who are familiar with ADF culture. These interactions (recorded as properly written file notes) could assist decision-making as additional evidence accessible to DVA staff needing information in the course of their duties.

Unfortunately there will be those who seek to improperly gain access to entitlements and the reality is that it is not possible to detect every instance of incorrect provision of payments or services. However it would be reasonable to expect that the savings that arise from improved claim processing and less resources necessary to defend decisions in the Administrative Appeals Tribunal would be utilised in dealing with claims through increased profiling and data matching where higher risk is apparent.

I trust that these recommendations will be seriously considered as a way forward to helping Veterans and improving the reputation of DVA in the Veteran community not to mention as a positive way forward to address the suicide issues.

Yours Sincerely

Chris Berg Ex Australian Army 1980 - 1986