

## **Submission into the Productivity Commission's 'draft' Report into Compensation and Rehabilitation for Veterans – A Better Way to Support Veterans December 2018**

As I have indicated, I wish to make a submission to the Commission regarding its 'draft' Report.

Having read the Report (703 pages) and re-read the Overview three times I have many problems with the investigative nature and the recommendations by the two Commissioners, neither of who have any Military Service that I could find. This, while allowing for a perceived 'unbiased' view, has resulted in some major points have been misjudged and/or misused throughout. Even the title of the Report says it all: Compensation and Rehabilitation for Veterans. What happened to **Repatriation**?

The Commissioners have readily utilised the standard CPS Workbook for inquiries to the letter. That is, produced a 700 plus page report in mid-December (at a time when all ESO's and other interested parties have ceased operations for the year) and requested submissions in mid-February (thereby minimising the time available to adequately prepare a submission and hence influence the number submitted). Not a good look at all I'm afraid, but this meets the CPS and the Politicians requirements.

It is my view that the Commissioners have pre-determined an outcome and have then 'situated the appreciation' by cherry-picking from those submissions made to the Issues Paper dated May 2018 to obtain the findings and subsequent recommendations. However, it is agreed that some type of reform is needed! My recommendation is that the VEA be amended accordingly to ensure ALL ADF personnel are covered under the same conditions of 'qualifying' service as amended by prime Minister Whitlam at that time.

Having considered the 'draft' Report it is my view that this is yet another effort by the Commonwealth Public Service (CPS) and their Union to do away with DVA; having failed to achieve this aim previously by having it merged into Administrative Services.

It is also a 'cost saving' exercise by the Federal Government to, again, reduce entitlements to the ex-Service Community. They have done these many times, and this is just another attempt to do it again.

The original scheme was the VEA and it served the ex-service community well for many years. It had its limitations, but the onus of proof was placed on the Veteran to prove their claim was indeed 'service' related and that they met the 'qualifying service' requirements of the Act. It was mainly there for the provision of entitlements to those who had qualifying "War Service" and was known and accepted by those serving at the time. However, Prime Minister Gough Whitlam (a WWII War Veteran himself), amended the Act to include all those serving full-time at the time he closed the National Service Scheme and the commitment to the Vietnam War ended. It included war, war-like and non-war service personnel.

Subsequent introductions of the MRCA, SRCA and the current DRCA were all 'designed' so that no ADF Member would be worse off under the changes implemented, however, this has not been the case and was effectively demonstrated in the aftermath of the Blackhawk accident in Queensland. Yet another example of fine words from our Politicians that are not worth the paper they are written on.

**The Employer**

The 'draft' Report speaks of the Department of Defence as 'the employer' of serving ADF Personnel. I contend that this is not correct as the only 'employer' of the ADF is the Commonwealth Government of Australia and the Commander-in-Chief is the Governor General of Australia. All ADF personnel on enlistment and/or Appointment swear an Oath to defend Australia, as ordered by the Commonwealth Government of the day. It is therefore the Commonwealth Government's 'duty of care' to provide ADF personnel with appropriate and suitable compensation and rehabilitation during and after their period of service. In the case of Commissioned Officers, unless dishonourably discharged, they remain on the 'Retired List' until they turn 65 and therefore provide the basis for expansion in time of War.

This has been, and continues to be, the case for current Serving Personnel; who on enlistment and/or appointment are only accepted as being Medically, Dentally and Psychologically fit to Serve. No other Commonwealth Government 'employee' is required to meet these standards, nor offer 'unconditional' service for the period of their engagement. Whilst they continue to serve they receive medical and Dental care and support for all injuries and illnesses incurred during their period of service. Once they leave the ADF, with or without recognised medical issues, they currently (rightly) come under the responsibility of the DVA. To obtain any compensation or rehabilitation services through DVA the 'Veteran' (Ex-Service Person) must apply for an 'prove' that the injury or illness was Service related. This has been mostly done through the obtaining of their Medical Records and Personal File held by the Department of Defence (Service Section). Unfortunately, as in my case, not all records have been placed into the files, so if they did not keep a copy themselves they are then required to seek other avenues to prove they were at a location and did receive that injury or illness. This obviously takes time to confirm and assess the level of compensation or rehabilitation appropriate to that 'individual'.

DVA was not established as a 'Worker's Compensation Scheme' per se but as a 'Repatriation' system whereby Veterans with Qualifying Service and 'accepted' conditions would be provided with the appropriate treatments. Repatriation Hospitals were established to meet this requirement and were places where Veterans would be together in a 'comradeship' environment. Regrettably, such Repatriation Hospitals (to save money – as always the Government's need) were sold off to Private Companies on the proviso they would continue to serve the Veteran Community's needs. This has again proven to not be the case and Veterans have suffered accordingly by the infamous phrase: they would not be worse off under the changes implemented

In carrying out its functions, the **Department of Veterans' Affairs (DVA)** administers the following agencies:

- Australian War Memorial
- Military Rehabilitation and Compensation Commission
- Office of Australian War Graves
- **Repatriation** Commission
- **Repatriation** Medical Authority
- Specialist Medical Review Council
- Veterans' Children Education Boards
- Veterans' Review Board

The 'draft' Report states that War has substantially changed! No, it has NOT!! As can be evidenced by watching the nightly News footage of Wars and Conflicts around the world demonstrate. No matter

how much the Air Force and Navy bomb an enemy it is the Army that must put 'boots on the ground' to defeat an enemy, capture ground and defend it. Fortunately, for Australia there has been NO War of this nature since Vietnam and even that was limited in its scope in that the Allies had Air Superiority over their enemy.

### Accidents during Training

The role of the Department of Defence is to recruit, train and maintain enough personnel and equipment as a 'base' for expansion in time of War. To do this it must conduct training and exercises in as 'realistic' scenarios as possible. It must prepare for War as its writ from the Federal Government and the people of Australia. In my 34 plus years of service safety was always stressed as a priority for every aspect. In times of conflict the reduction of casualties is paramount; in time of peace prevention of injury or death of soldiers is also paramount and every means available is used to achieve this end. However, evidence suggests that where there are large concentrations of troops accidents will occur. Indeed, during the planning and preparation for Exercise Kangaroo 83 in Western Australia the provision of a certain number of coffins was included. Thankfully, none were necessary.

### Wide-ranging reforms

The first sentence of final paragraph in this section states: "Importantly, no veteran or dependant of a deceased veteran who currently receives a benefit or entitlement will be worse off under our proposals." This is and has been regarded by many ADF personnel as being a typical CPS 'motherhood' statement that has proven to be wrong many times in the past. In fact, this can be effectively demonstrated by the changes from the VEA to DRCA and MRCA. In each case those serving at the time have become 'worse off' under the changes because DVA interpreted the outcome based on the most cost saving option for the Government and not in the best interest of the veteran. Please excuse my cynicism but after 34 years of service in the ADF, this has been the normal procedure of Government(s) to save money. As an aside, we are still waiting for the 3% Superannuation withheld and promised to be return by Prime Minister Paul Keating!

Because the ADF Serves the Nation and has always been an 'apolitical' organisation, it serves the Government of the day. It has never required nor accepted, where it was tried with the Australian Defence Association, to have a 'Union' representative body because this does simply not meet the Service requirements.

There has been 'ONE' submission; which emphasises that the DVA Entitlements are 'overly generous', made by the CPS Union on behalf of its members. Probably based on the spurious belief that those Public Servants working within the Department of Defence (mainly in Canberra) are somehow 'equivalent' to those ADF Members sitting opposite them in an office. Nothing could be further that the truth! For some of the following reasons:

	ADF Members	Vs	DoD CPS Employees
Must Meet Medical, Dental and Psychological Standards on enlistment/employment:	Yes		No
Must maintain these standards during the whole period of enlistment:	Yes		No
Can be deployed on Operations or to a War Zone at short notice:	Yes		No
Is generally required to move every three to four years:	Yes		No
Has the ability to take strike action:	No		Yes

Must annually qualify in all specific tasks and skills:	Yes	No
Is subject to Military Law:	Yes	No
Is subject to Civilian Law:	Yes	Yes
Are required to move to any part of the Nation to meet ADF needs:	Yes	No

As has been effectively demonstrated above there can be NO comparison of equivalency nor justification as to the perceived overly generous entitlements argument submitted.

### Who is a Veteran?

This Report, again using a very simplistic and inaccurate definition; assumes that all ADF personnel are Veterans. Wrong! They are current Serving members. They do not become Veterans (as the accepted definition by them and ex-Service personnel) until they leave the ADF. The notion that they are a Veteran because of the recently approved DVA definition for Mental Illness cannot be accepted as a cover-all.

### RSL of Australia

When is a veteran not a war veteran?

For decades that question has generated heated arguments in RSL clubs, pubs and lounge rooms across the nation.

Finally, the Returned and Services League (RSL) appears to have drawn a line in the sand and decided that anyone who has served in a military uniform can be referred to as a “veteran”.

### DVA: Eligibility (for benefits and payments)

#### Veterans

Veterans who have served in the Australian Defence Force (ADF) may be eligible for pensions or benefits from DVA, depending on their individual situation. Some British, Commonwealth and Allied veterans who served in conflicts in which Australia was involved may also be eligible for pensions/or benefits from DVA.

Qualifying service is one of the criteria used to determine if you are eligible for a service pension. Qualifying service for a service pension is different from operational service for a disability pension. You may be eligible for a disability pension, but not be eligible for a service pension.

- [Factsheet — IS57 — Australian, Commonwealth and Allied World War 2 Veterans Qualifying Service](#)
- [Factsheet — S58 — Qualifying Service in Post-Second World War Conflicts](#)

As a member of the ADF, you may have qualifying service if you have done **any of the following**:

- served in an operational area after the Second World War and were allotted for duty in that operational area; or rendered war like service
- rendered service during the Second World War and incurred danger from hostile forces of the enemy during the period of hostilities (this criterion also applies to Australian mariners)
- served in an operational area after the Second World War and were allotted for duty, or were a member of a unit that was allotted for duty in that operational area; or have warlike service

- served on certain submarine special operations between 1978 and 1992 and were awarded, or were eligible to be awarded, the Australian Service Medal with the Special Operations Clasp
- have been awarded, or were eligible to be awarded, prescribed medals/clasps in respect of certain bomb clearance or minesweeping duties following the Second World War.

### Former Serving Members

If you are a former member of the ADF (including in reservist and cadet positions), you may be eligible to claim compensation for any medical condition related to your service. The entitlements available depend on the legislation applicable at the time of service and the type of service you rendered.

- If your condition is related to service prior to **1 July 2004**, support is available under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* ([DRCA](#)), *Veterans' Entitlements Act 1986* ([VEA](#)) or *Defence Act 1903*
- If your condition is related to service on or after **1 July 2004**, support is available under the *Military Rehabilitation and Compensation Act 2004* ([MRCA](#)).

See also [current or transitioning ADF member](#)

### Current Serving Members

If you are a current serving member of the ADF, including in reserve and cadet positions, you may be [eligible](#) for medical treatment (for example, if you are in the process of being discharged from the ADF), rehabilitation and compensation or vocational services for any condition relating to your service.

The [On Base Advisory Service \(OBAS\)](#) provides advice about eligibility for assistance through DVA. You can contact On Base Advisors either on base or during their [regular scheduled visits to base](#).

If you are an injured or ill former-ADF member, you may be eligible for a [white card](#) (for specific conditions) or a [gold card](#) (for all conditions) for health care services at DVA's expense. DVA Health cards are not generally provided to serving members, as these costs are ordinarily met by the ADF.

See also [current or transitioning ADF member](#).

### Non-liability Health Care

[Non-Liability Health Care \(NLHC\)](#) allows current and former ADF personnel and Reservists, depending on their eligibility, to receive treatment for any of the following conditions:

- Cancer (Malignant Neoplasm)
- Pulmonary Tuberculosis
- any mental health condition.

For more information on NLHC, please see [Factsheet — HSV109 — Non-Liability Health Care](#).

Australian Army: <https://www.army.gov.au/army-life/veterans>

Veterans Review Board: <http://www.vrb.gov.au/pubs/chapter10.pdf>

Young Diggers:

<http://www.youngdiggers.com.au/veterans>

## Who is a veteran?

If you have served in the Army, Navy or Air Force, full-time or part-time, serving or ex-serving, during peacetime or active/operational service - You are a veteran!

You may resist even being called a 'veteran' as that term has an age connotation with which you may not want to identify.

You as a young veteran, broadly speaking, who has served since 1975 - the post-Vietnam generations - are the sons and daughters, grandsons and granddaughters of our older veterans. You have grown up with a different set of expectations. You also face a range of different challenges and work in a changed social environment.

You, as a young veteran increasingly experience multiple deployments, diverse in nature – from humanitarian relief operations to full combat (as in the Middle East). The deployments expose you to:

- **environmental harm** (disease and temperature/humidity extremes and potentially toxic substances)
- **psychological harm** (exposure to death and suffering on a large scale, often involving civilian women and children, and the stress of not knowing who is the enemy or where he or she is)
- **physical harm** (the full range of weapon effects and possible suicide bombings)

In several instances, you (male and female) will experience this full range of threats in different theatres over two to three years.

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