

# *Submission to the Productivity Commission in relation to – Inquiry into Veterans’ Affairs’ Legislative Framework and Supporting Architecture for Compensation and Rehabilitation for Veterans (Serving and Ex-serving Australian Defence Force Members)*

In this submission I intend to reference my own experiences and dealings with the Department of Veterans Affairs (DVA/the department) into my efforts to gain (at the very least) acknowledgement of liability of injuries sustained as a result of military service in the Australian Defence Force (ADF), specifically the Royal Australian Air Force (RAAF).

## BACKGROUND

1. I served in the RAAF from 1985 to 2007 (full time) and 2007 to 2014 (as a reservist).
2. During that time I served as a photographer (1985 to 1996) and as C130 Hercules aircrew (1996 to 2014).
3. As aircrew I deployed to numerous locations to perform operational duties, including but not limited to:
  - a. Indonesia (tsunami support)
  - b. Iraq
  - c. Afghanistan
  - d. Papua New Guinea
  - e. East Timor

## DVA EXPERIENCE

4. As a result of my service I have received numerous injuries, including cervical and lumbar spinal injuries.
5. Some of these injuries have been submitted to DVA for assessment of liability, some have not.
6. The reason some of the injuries have not been submitted to DVA purely relates to the lack of desire to be further exposed to the “DVA red tape machine”. The bureaucracy of the DVA appears to thrive on admitting liability to the least number of claims possible, almost as if this were a Key Performance Indication (KPI) for the department.
7. The perception of the department is that (as per the terms of reference) it DOES NOT “deliver compensation and rehabilitation to veterans in a well targeted, efficient and veteran-centric manner”. Rather, it is more interested in NOT approving as many claims as possible.

## DVA STATEMENT OF PRINCIPLES

8. The DVA, understandably, needs to be able to apply guidelines to ensure only credible claims for liability are accepted.
9. The Statement of Principles (SOP) are the vehicle the department use for their guidance but SOPs appear to be rigidly adhered to at the exclusion of all other reasonable data. Including, but not limited to, diagnosis by experts in their field (such as associate professors of neurology, in my personal case).
10. If the data supporting a diagnosis does not fall within the framework of an applicable SOP the Departmental Medical Advisors (DMA) and/or Contracted Medical Advisors (CMA) are unlikely to rule outside the SOP.

## MILITARY RECORDS

11. Military records are a significant issue in relation to claims for liability. Many SOPs require a specific 'event' or series of events to have occurred to enable liability of an ailment to be accepted as having been as a result of military service.
12. Normal expectation would be that medical records would record these events but in some cases those records have been lost, misplaced or in some cases, medical staff did not believe it relevant to record events that have later proven pivotal in liability claims.
13. Again, as I can personally attest to, medical personnel NOT recording certain events because "it's not required". In one specific case it was exposure to airborne contaminants in the Middle East Area of Operation (MEAO) that, at the time, weren't believed to be dangerous but it now appears that may not be the case. This has all the hallmarks of the F111 deseal/reseal event where the ADF denied liability for years until it was undeniable there was an issue.

## CULTURE

14. There is, particularly among RAAF aircrew, a strong culture of getting the job done, along with a desire to remain flying. Obviously flying is why you are aircrew but there was a tendency to ignore or carry injuries without reporting them for fear of losing one's ability to continue flying.
15. This non reporting culture does not support the individual where they require evidence of an event or ailment to be in accordance with an SOP. This would then suggest the structure of the SOP process used by the DVA is not well targeted or veteran-centric.

## DMA & CMA

16. Whilst the use of DMAs and CMAs appear to be the most cost effective solution to provide the DVA with assessment decisions, this mechanism appears to be either biased or flawed in favour of not accepting liability. These assessors seem to take a purely 'black & white' approach to application of SOPs.
17. From my personal experience, those individuals engaged by the DVA to undertake DMA and CMA duties are very senior physicians in their field who are no longer practicing full time. This is not to diminish their skills or experience but does cause me to question their ability to contextualise veteran's injuries in the modern environment or workplace, hence they rigidly follow SOP guidelines.

## SUMMATION

18. The process of submitting a claim for liability or compensation through the Department of Veterans Affairs appears to be biased towards a negative outcome for the ex-military member.
19. The process uses terms of reference that also favour a negative outcome by application of SOPs without (apparently) any consideration given to other factors that may affect the ability of the claimant to support and prove the claimed injuries/ailments are in fact service related.
20. The process used by the department in itself is detrimental to members by taking extended periods of time to arrive at a decision (and more times than not, a negative decision, at least the first time around). This then sets up an environment where individuals choose not to engage the department and rather, live with medical conditions (that 'may' be service related) and not attempt to have something assessed in their favour.
21. In my personal opinion and in light of my personal experiences I do not believe:
  - a. the use of the Statements of Principles as a means to contribute to consistent decision-making based on sound medical-scientific evidence is effective; and
  - b. the legislative framework and supporting architecture delivers compensation and rehabilitation to veterans in a well targeted, efficient and veteran-centric manner.

Sincerely

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