



DEFENCE FORCE WELFARE ASSOCIATION
Patron-in-Chief: His Excellency General The Honourable David Hurley AC DSC (Retd)
NATIONAL OFFICE

2 September 2019

Mr Robert Fitzgerald

Dear Commissioner Fitzgerald,

DEFENCE FORCE WELFARE ASSOCIATION
SUMMARY OF RESPONSES

Australian Defence Veterans' Covenant

We, the people of Australia, respect and give thanks to those who have served in our defence force and their families.

We acknowledge the unique nature of military service and the sacrifice demanded of the men and women, and their families, who commit to defend our nation.

We undertake to preserve the memory and deeds of all those who have served and promise to welcome, embrace, and support all military veterans as respected and valued members of our community.

For what they have done, this we will do

Introduction

The Government tasked the Productivity Commission (PC) to conduct an independent inquiry into the system of Compensation and Rehabilitation for Veterans - A Better Way to Support Veterans. The Government tabled the final report in the Federal parliament on 4 July 2019.

The Report covers over 900 pages, 69 Recommendations and 26 Findings. The document is extensive and has the potential to impact on the future of veteran care in the years to come. One can only look on the positive recommendations as opportunities for the Government and the DVA to, if implemented, have the potential to overcome many of the shortcomings of the current system. Having said that, DFWA has identified many of the findings and recommendations that are suspect at best and would in some cases take veteran care into a constant problematic era.

Department of Veterans Affairs

DFWA does not support the disbanding of the DVA, a 100-year old Government department with a proud history of support for those who have fought the nations war and served in its defence forces.

That said, and as is common with any long-established organisation, it does need to be re-energised and restructured. It needs to adapt to changing operating environments and in the terminology of the 21st century adopt an agile mentality.

Governments of all political persuasions have been complicit in the situation in which DVA is presently operating. Frequent changes of Ministers, sluggishness in the development and implementation of legislation and regulations, and the use of bureaucratic language which confounds messages rather than selling them. DVA needs to be supported in the establishment of a vision and the development of a strategy that will take it into the 21st century. DFWA is aware that both are a work in progress. Government and the Parliament must enable their implementation.

DVA does not need to be disbanded or emasculated for the sake of doing ‘something’ that may satisfy an urgent political imperative. Such thinking will only disrupt the positive steps that have been made in recent years and be detrimental to veteran care into the future.

Maintaining the status quo as DVA has done until recently is insufficient rationale to state that it is ‘not fit for purpose’. While supporting consideration of the establishment of a Veterans Services Commission, DFWA has reservations that, ‘such a major change could be achieved in the three-year time frame proposed through what must be beneficial legislation’.

Consideration of such a change does not presuppose support for it. The Repatriation Commission and the Military Rehabilitation and Compensation Commission are long-established bodies that, in partnership with DVA, serve veterans well. DFWA considers that it is challenging to contemplate the abolition of the entities and establishment of another in the space of three years, all while maintaining effective support to veterans and their families. Such may be a bridge too far!

Unique Nature of Military Service

The Report identifies that the ‘unique nature of military service’ should be a guiding principle in the Government’s approach to veteran care. Despite this, it fails to define its unique nature, what makes it unique, and what separates it from other employment pursuits.

Military service in the ADF is unique, as upon enlistment the individual signs away the protection that other Australians have under the Universal Declaration of Human Rights. This United Nations Declaration, signed in 1948, give all other Australians the inalienable rights of life, liberty and the security of person. Members of the ADF willingly sign away these rights in the service of the nation. The Report fails to emphatically isolate the injuries and compensation regime of the ADF from that of the civilian community as it equivocated on the notion of the unique nature of military service.

The notion of ‘no detriment’ in the treatment of veteran and their benefits is a construct that should go in tandem with the unique nature of military service. DFWA entreats the Government to clearly identify that uniqueness as a benchmark in its dealings with veteran care into the future.

Terms of Reference

The PC appears not to have met its Terms of Reference (ToR) in two key areas as follows:

- a. **No Cost Benefit Analysis (or other analysis):** The ToRs reference, ‘Efficiency and Effectiveness’ but as summarised in Ch 19.4, *“While the Commission has not quantified the benefits of its reforms, they are **likely** (DFWA emphasis) to be significant and across multiple domains” and “In the long run, the cost of the system may reduce.”*

"Likely" and "may" are undeserving in a report that took 12 months to compile, that is over 900 pages in length and that the authors assert as being "comprehensive". The veteran community deserve better from what the government acknowledges is a "report looking at an important and complex system" (Joint Media Release 4 July 2019). Surely, in asserting that DVA is not fit for purpose and identifying substantive recommendations, then well researched data would be a first step toward establishing a future veteran care system.

- b. Workers Compensation:** The ToR sought best practice, drawing on experiences of Australian workers' compensation arrangements. The report is replete with insurance industry quotes but gives no examples of industry performance compared with DVA present or projected performance. Various NSW state government reviews clearly show that 'best practice' workers compensation schemes have more deficiencies than does the DVA. While referencing such schemes the report is silent on their shortcomings! Why?

It is agreed that any support system "needs to have a focus on the lifetime wellbeing of the veteran". However, it is problematic to submit that a future veteran care system, *"should be redesigned based on the best practice features of contemporary workers compensation and social insurance schemes"* if no cost benefit analysis has been attempted. This particularly if the unique nature of military service has not been clearly defined.

Harmonise the Initial Liability Process

The current system for veteran support has three main Acts:

- a. The Veterans' Entitlements Act 1986 (VEA);
- b. The Military Rehabilitation and Compensation Act 2004 (MRCA); and
- c. The Safety, Rehabilitation and Compensation (defence related Claims) Act 1988 (DRCA).

A significant discouragement for the veterans and veteran advocates during the claims process is the requirement to weave their way through the claims process. Initial liability is assessed by type and length of service, by where and when an injury occurred, and the purpose of the claim.

DFWA has long called for rationalising the various Acts impacting on veteran care. There is merit in the proposal for a two-scheme approach with 'older veterans remaining eligible to claim under the VEA' and all other veterans to receive support through a modified MRCA-based scheme. This latter scheme could be achieved by 'rolling' the DRCA into the MRCA to create one Act.

However, the question must be asked, *'Why not merge the three Acts into one Act now?'* Seeking to maintain the three Acts as silos within the initial liability process during a period of proposed significant change within the veteran care system surely begs additional complications.

DFWA strongly urges that the Government mandate the harmonisation of these three Acts as a first step to simplify veteran care.

Funeral Allowance

The notions of harmonisation and 'no detriment' are manifest in the Report to standardise the Funeral Allowances. Why there is a difference between the allowance payable under the VEA and MRCA is difficult to defend. It is discriminatory and unjustified at a time when the cohort of WW2 and post-WW2 veterans under the VEA are eligible for a \$2,000 payment while more recent veteran receive \$12,000 under MRCA. Regarding the Funeral Allowance, there are complexities under both VEA and the MRCA but harmonising is supported by DFWA.

Conclusion

DFWA contends that the terms of reference have been met only in part. The report has not clearly defined the unique nature of military service and therefore has not underpinned its findings accordingly. A constant focus on 'workers compensation' arrangements as if these are the panacea for veteran care in the future without, yet again, clearly defining the unique nature of military service surely leaves in question the financial and broader recommendations in the report. Seeking to normalise military service by civilian standards which is the focus of the report again denies the demands that veterans live and often die by.

DVA is not in crisis as the Report seeks to portray. It is a Government department that warrants serious restructuring to enable it to face the 21st century with confidence. Forcing veteran care to undergo a major restructuring will surely add to the turmoil already being experienced by many. Is that what the Government wants?

Attached herein are DFWA's considered responses to each of the Recommendations of the Commission's lengthy report.

Yours sincerely,