

Responding to the Australian Government Veterans Productivity Draft Report, December 2018

Malcolm Whitney

I am deeply concerned and disappointed over the assumptions, conclusions and recommendations to come out of the Australian Government Draft Veteran's Productivity Commission Report. The inquiry says the objective of veteran's support should be to improve the wellbeing of veterans and their families through rehabilitation and social integration in a scheme like workers compensation. However, the objective of the recommendations appears to be more about government cost cutting rather than veteran's welfare.

The fact the report is released on 14 December 2018 and submissions are required by 11 February 2019 while veteran organisations are on leave, limiting discussion and feedback, is a clear indication that veteran's feedback wasn't important. Even the public hearings in Melbourne, Wagga, Canberra, Sydney, Brisbane, Hobart and Townsville will be after the closing date for feedback and the report won't go to the government until after the federal election. War Veterans are far more deserving of entitlements than a scheme that is solely needs based or similar to a Workers' Compensation Scheme and I believe it would be a terrible reflection on the government if it were to adopt the Commission's recommendations.

As a National Service Vietnam Veteran (April 1967- April 1968), I believe there is a significant difference between a member of the armed forces who suffers an injury or disability in a war zone compared to an injured worker in civilian life who is rehabilitated under Workers Compensation. There is also a big difference between a member of the Armed Forces injured in a war zone to someone who is injured in Australia. Regardless of whether you are injured or suffer Post Traumatic Stress Disorder (PTSD) from being involved in active service, I believe every veteran will have flashbacks for the rest of their life following a tour of duty. Emergency Services personnel in Australia also suffer bouts of depression and anxiety as a consequence of their job, but they are more likely to receive greater support and understanding from their friends and family. To live in a foreign country for six or twelve months with the knowledge that one day you are likely to come face to face the enemy, is something that will remain with you for the rest of your life, regardless of whether you are involved in direct combat.

The report recommends that the Department of Veterans Affairs be abolished despite DVA clients giving it an 81% satisfaction rating in a recent survey. The report provides various examples of how well veterans are compensated and even questions whether taxpayers are getting value for money from DVA. It suggests the veterans Gold Card should be more needs based, it questions why those who qualify at 70 should receive the card, it recommends doctor co-payments and even suggests there will be cost savings from reduced over servicing if we change the colour of the card. Having read the report at length I am deeply concerned that the recommendations are more about government cost saving than improving veteran's entitlements or welfare.

Part of the Report's overview on the veteran support system

"DVA provides various forms of support to current and former ADF members and their families. The supports include: income support and compensation, health care, rehabilitation, transition support and other services to support wellbeing. In 2017-18, DVA reported spending \$13.2 billion on the veterans' rehabilitation and compensation system (or about \$47 000 per client). Of this, about \$7.4 billion was spent on compensation and support, \$5.3 billion on health care and wellbeing, and \$437 million on enabling services such as workplace training, financial management and information technology. DVA also spent \$60 million on commemorative activities and facilities, such as war graves and memorials. A further \$800 million was provided to veterans and their families by the Commonwealth Superannuation Corporation (CSC) through invalidity and dependant pensions and Defence spent about \$437 million on rehabilitation and health care of serving members. DVA currently supports about 166 000 veterans and about 117 000 dependants (mainly widows or spouses). The exact number of living Australian veterans is not known (box 1). This is just one indication of the lack of information about Australian veterans."

Part of the Report's facts about serving and ex-serving personnel

"Who is a veteran? Traditionally, the term 'veteran' described former Australian Defence Force (ADF) members who were deployed to serve in operational conflict environments. However, in 2017, a Roundtable of Australian Veterans' Ministers agreed that a veteran would be defined as anyone who has served at least one day in the ADF. As such, for this inquiry we have used the term 'veteran' to cover all current and former serving ADF personnel, whether they were deployed to active conflict or peacekeeping operations or served without being deployed. The veteran community also covers family members."

Internet link – Full Report:

file:///D:/Documents/RSL/RSL%20State%20Branch/Government%20documents/Productivity%20Veterans%20Draft%20Overview%20Dec%202018.pdf

My response to the various draft recommendations:

Objectives and principles

DRAFT RECOMMENDATION 4.1

The overarching objective of the veteran support system should be to improve the wellbeing of veterans and their families (including by minimising the physical, psychological and social harm from service) taking a whole-of-life approach. This should be achieved by:

- preventing or minimising injury and illness
- restoring injured and ill veterans by providing timely and effective rehabilitation and health care so they can participate in work and life
- providing effective transition support as members leave the Australian Defence Force
- enabling opportunities for social integration
- providing adequate and appropriate compensation for veterans (or if the veteran dies, their family) for pain and suffering, and lost income from service-related injury and illness.

The principles that should underpin a future system are:

- wellness focused (*ability* not disability)
- equity
- veteran centric (including recognising the unique needs of veterans resulting from military service)
- needs based
- evidence based
- administrative efficiency (easy to navigate and achieves timely and consistent assessments and decision making)
- financial sustainability and affordability.

The objectives and underlying principles of the veteran support system should be set out in the relevant legislation.

Response: Recommendation 4.1 makes the assumption that veteran rehabilitation is simply a matter of getting veterans back into the work force and civilian life as soon as possible and that they don't require any other type of financial compensation or entitlement for their injury or disability. The last point highlights the savings government can gain by going down this path. Surely, veterans who have served in a war zone are entitled to greater consideration, following their service to the nation.

Prevention

The Australian Defence Force (ADF) is committed to providing a safe and healthy working environment for its members and it has achieved commendable reductions in serious injuries and illnesses over the past seven years. Nonetheless, more can be done to give the ADF better tools to help it achieve its commitment to improved work health and safety.

DRAFT FINDING 5.1

There are no compelling grounds to change the current arrangements where Australian Defence Force (ADF) members are subject to Commonwealth work health and safety legislation. In fact, the introduction of the *Work Health and Safety Act 2011* has been instrumental in helping to improve work health and safety outcomes in the ADF.

DRAFT FINDING 5.2

Since Defence introduced Sentinel (a work health and safety incident reporting system) in 2014, it has expanded its coverage (there is now service-wide access), improved the ease of use of the system for serving personnel and put in place processes to ensure that reported incidents are acted on. However, despite these efforts, underreporting of work health and safety incidents on Sentinel (other than for serious, defined events that must be notified to Comcare) continues to be an issue.

INFORMATION REQUEST 5.1

The Commission was told that the data recorded on Sentinel significantly understates the true incidence of most types of work health and safety incidents. What aspects of Sentinel contribute to this and what might be done to improve reporting rates?

DRAFT RECOMMENDATION 5.1

Defence should investigate the feasibility and cost of augmenting the Sentinel database with information from the Defence eHealth System. In the longer term, when Defence commissions the next generation of the Defence eHealth System, it should include in the system requirements ways to facilitate the capture of work health and safety data.

The Departments of Defence and Veterans' Affairs should investigate the feasibility and cost of augmenting the Sentinel database with information from the Department of Veterans' Affairs' datasets, which would provide insights into the cost of particular injuries and illnesses.

Response: Once again 'COST SAVING' appears to be the main consideration.

DRAFT RECOMMENDATION 5.2

Defence should use the injury prevention programs being trialled at Lavarack and Holsworthy Barracks as pilots to test the merit of a new approach to injury prevention to apply across the Australian Defence Force (ADF). Defence should adequately fund and support these programs and ensure that there is a comprehensive and robust cost–benefit assessment of their outcomes. If the cost–benefit assessments are substantially positive, injury prevention programs based on the new approach should be rolled out across the ADF by Defence.

Response: Another example where the focus is to identify 'COST BENEFITS' of the program rather than the benefits for the ADF members. I'm not suggesting that cost efficiencies shouldn't be considered, but throughout the report this appears to be the main focus rather than veteran's welfare.

DRAFT RECOMMENDATION 5.3

Beginning in 2019, the Australian Government should publish the full annual actuarial report that estimates notional workers' compensation premiums for Australian Defence Force members (currently produced by the Australian Government Actuary).

Rehabilitation and wellness services

Significant reform is required to the way Defence and the Department of Veterans' Affairs (DVA) procures, organises and monitors rehabilitation services. Changes are also required to rehabilitation arrangements in the transition period to ensure continuity of care. Given that the Veteran Services Commission (VSC) (draft recommendation 11.2) will replace DVA, recommendations in this and subsequent chapters directed at DVA should also be read as referring to the VSC.

Response: As this is supposedly a report seeking feedback and comment on the various recommendations, why should further reference to DVA be replaced by VSC. There is simply no logical reason why you would replace DVA with the VSC, when we already know that 81% of DVA Clients (veterans) are satisfied with the DVA service. No doubt DVA can be improved, but that isn't justification to replace it.

DRAFT FINDING 6.1

Defence has a strong incentive to provide rehabilitation services to Australian Defence Force (ADF) members who have a high probability of redeployment or return to duty, but a weaker incentive to rehabilitate members who are likely to be transitioning out of the ADF. This is because ex-serving members become the responsibility of the Department of Veterans' Affairs (DVA) and Defence does not pay a premium to cover liabilities. Access to rehabilitation supports can also be disrupted during the transition Period. DVA pays limited attention to the long-term sustainability of the veteran support system (in part because the system is demand driven) and this reduces its focus on the lifetime costs of support, early intervention and effective rehabilitation.

Response: The only benefit put forward for abandoning 'DVA' is the long-term sustainability of the veteran support system based on the costs over a lifetime. Once again, the focus is on the cost of the system to the government. Surely, war veterans service to the nation is far greater than government cost saving.

DRAFT RECOMMENDATION 6.1

The Australian Defence Force Joint Health Command should report more extensively on outcomes from the Australian Defence Force Rehabilitation Program in its Annual Review publication.

INFORMATION REQUEST 6.1

The Commission is seeking information (both quantitative and qualitative) on return-to-work outcomes from Australian Defence Force and Department of Veterans' Affairs rehabilitation programs. Areas of particular interest

include the appropriateness of comparing return-to-work outcome measures in military and civilian contexts, and what approaches to return to work are effective both in-service and post-service.

DRAFT RECOMMENDATION 6.2

The Department of Veterans' Affairs should make greater use of the rehabilitation data that it collects and of its reporting and evaluation framework for rehabilitation services. It should: ☐ evaluate the efficacy of its rehabilitation and medical services in improving client outcomes ☐ compare its rehabilitation service outcomes with other workers' compensation schemes (adjusting for variables such as degree of impairment, age, gender and difference in time between point of injury and commencement of rehabilitation) and other international military schemes.

Response: As indicated previously you can't compare a veteran's rehabilitation with other workers' compensation schemes, because you aren't comparing like with like. An injured worker in a factory hasn't experienced 6 or 12 months in a war zone or faced the daily possibility of being killed.

DRAFT RECOMMENDATION 6.3

Defence and the Department of Veterans' Affairs need to engage more with rehabilitation providers, including requiring them to provide evidence-based approaches to rehabilitation, and to monitor and report on treatment costs and client outcomes. Changes are also required to the arrangements for providing and coordinating rehabilitation immediately prior to, and immediately post, discharge from the Australian Defence Force (ADF). Rehabilitation services for transitioning personnel across this interval should be coordinated by Joint Transition Command (draft recommendation 7.1). Consideration should also be given to providing rehabilitation on a non-liability basis across the interval from ADF service to determination of claims post-service.

Response: In other words, Defence and DVA would be requiring rehabilitation providers to report on treatment costs so measures could be implemented to limit treatment and achieve cost savings. The last sentence is unclear but it appears to suggest that ADF is wanting to remove the ADF persons right to liability.

INFORMATION REQUEST 6.2

The Commission is seeking further views on the potential use of consumer-directed care for the rehabilitation services provided to veterans, or on alternatives for providing more tailored, person-centred rehabilitation services.

Transition to civilian life after military service

While most veterans make a relatively smooth and successful transition to civilian life, some find transition a difficult and stressful time. Neither Defence nor DVA has clear responsibility for all aspects of veterans' transition, and services are not targeted to those most at risk. To improve military-to-civilian transition, and to clarify roles and responsibilities, the Commission is recommending creating a new command responsible for transition preparation and support.

DRAFT FINDING 7.1

The Departments of Defence and Veterans' Affairs offer a range of programs and services to support veterans with their transition to civilian life. Despite some improvements in recent years, these efforts remain fragmented and poorly targeted, with few demonstrated results. While many discharging members require only modest assistance, some require extensive support especially those who are younger, served in lower ranks, are being involuntarily discharged for medical or other reasons or who have skills that are not easily transferable to the civilian labour market.

DRAFT RECOMMENDATION 7.1

The Australian Government should recognise that Defence has primary responsibility for the wellbeing of discharging Australian Defence Force members, and this responsibility may extend beyond the date of discharge. It should formalise this recognition by creating a 'Joint Transition Command' within Defence. Joint Transition Command would consolidate existing transition services in one body, with responsibility for preparing members for, and assisting them with, their transition to civilian life. Functions of Joint Transition Command should include:

- preparing serving members and their families for the transition from military to civilian life
- providing individual support and advice to veterans as they approach transition
- ensuring that transitioning veterans receive holistic services that meet their individual needs, including information about, and access to, Department of Veterans' Affairs' processes and services, and maintaining continuity of rehabilitation supports
- remaining an accessible source of support for a defined period after discharge
- reporting on transition outcomes to drive further improvement.

INFORMATION REQUEST 7.1

The Commission is seeking feedback on the period of time that Joint Transition Command should have responsibility for providing support to members and former members of the Australian Defence Force who require that support.

DRAFT RECOMMENDATION 7.2

Defence, through Joint Transition Command (draft recommendation 7.1), should:

- require Australian Defence Force members to prepare a career plan that covers both their service and post-service career, and to update that plan at least every two years
- prepare members for other aspects of civilian life, including the social and psychological aspects of transition
- reach out to families, so that they can engage more actively in the process of transition.

DRAFT RECOMMENDATION 7.3

The Department of Veterans' Affairs should support veterans to participate in education and vocational training once they leave the Australian Defence Force. It should trial a veteran education allowance for veterans undertaking full-time education or training.

INFORMATION REQUEST 7.2

The Commission is seeking information to inform the design of the proposed veteran education allowance. In particular:

- *at what rate should the veteran education allowance be paid?*
- *should eligibility for the veteran education allowance be contingent on having completed a minimum period of service? If so, what should that minimum period be?*
- *should any other conditions be put on eligibility for the veteran education allowance?*

INFORMATION REQUEST 7.3

The Commission is seeking further information on the transition needs of members when they leave the Reserves.

Initial liability assessment

Having liability accepted for an injury, illness or death is the first step in most claims for compensation, treatment and rehabilitation in the veteran support system. The way initial liability is assessed varies by Act and by type of service. These variations are no longer justified and should be reduced or eliminated where feasible.

DRAFT RECOMMENDATION 8.1

The Australian Government should harmonise the initial liability process across the three veteran support Acts. The amendments should include:

- making the heads of liability and the broader liability provisions identical under the *Veterans' Entitlements Act 1986* (VEA), the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) and the *Military Rehabilitation and Compensation Act 2004* (MRCA)
- applying the Statements of Principles to all DRCA claims and making them binding, as under the MRCA and VEA
- adopting a single standard of proof for determining causality between a veteran's condition and their service under the VEA, DRCA and MRCA.

Response: I trust the compensation will be assessed at the highest level of liability across the various Acts. However, based on the tone of this report I fear that isn't the purpose of the recommendation and more about cost savings.

INFORMATION REQUEST 8.1

The Statements of Principles are created on two different standards of proof for the underlying medical-scientific evidence — a 'reasonable hypothesis standard' and a 'balance of probabilities' standard. The Commission is seeking participants' views on which standard of proof the veteran support system should use going forward. What would be the impacts of that choice on future claims and government expenditure, and how could they be quantified?

DRAFT RECOMMENDATION 8.2

The Australian Government should amend the *Veterans' Entitlements Act 1986* (VEA) to allow the Repatriation Medical Authority (RMA) the legal and financial capacity to fund and guide medical and epidemiological research into unique veteran health issues, such as through a research trust fund. Following any investigation, the RMA should be required to publish the list of peer-reviewed literature or other sound medical-scientific evidence used, as well as outline how different pieces of evidence were assessed and weighed against each other. This may require legislative amendments to the VEA. Additional resources should also be given to the RMA, so that the time taken to conduct reviews and investigations can be reduced to around six months.

Response: Fifty years after the Vietnam War there are still arguments over the impact on Vietnam Veterans in regard to 'Agent Orange'. Therefore, the suggested six month period would appear to be totally unrealistic and why is it necessary to impose any limitation? We all want to see investigations reviewed as quickly as possible, but placing a time line on a review could result in vital medical evidence being overlooked.

INFORMATION REQUEST 8.2

The Commission is seeking participants' views on whether there is merit in the Specialist Medical Review Council remaining as a standalone organisation, or whether its role should be folded into an augmented Repatriation Medical Authority review process that brings in additional medical specialists.

Claims administration and processing

There are significant and ongoing problems with the way DVA administers claims. DVA is attempting to fix these problems under its Veteran Centric Reform (VCR) program, which began in 2016. VCR has had some successes, most notably the introduction of an online claims system, but issues including slow and poor quality claims assessments remain. Close monitoring of the effective roll out of the VCR, both in terms of timeliness and outcomes is required.

DRAFT RECOMMENDATION 9.1

The Department of Veterans' Affairs should report publicly on its progress in implementing recommendations from recent reviews (including the 2018 reports by the Australian National Audit Office and the Commonwealth Ombudsman) by December 2019.

DRAFT FINDING 9.1

MyService, in combination with a completed Early Engagement Model, has the potential to radically simplify the way Australian Defence Force members, veterans and their families interact with the Department of Veterans' Affairs (DVA), particularly by automating the claims process. But achieving such an outcome will be a complex, multi-year process. To maximise the probability of success, Defence, DVA and the Department of Human Services will need to:

- continue to work closely in a collegiate and coordinated fashion
- retain experienced personnel
- allocate sufficient funding commensurate with the potential long-term benefits.

DRAFT RECOMMENDATION 9.2

The Department of Veterans' Affairs should ensure that staff, who are required to interact with veterans and their families, undertake specific training to deal with vulnerable people and in particular those experiencing the impacts of trauma.

DRAFT FINDING 9.2

The Department of Veterans' Affairs needs to negotiate a sustainable and predictable funding model with the Department of Finance based on expected claims and existing clients. This should incorporate the likely efficiency savings from the Veteran Centric Reform program via initiatives such as MyService.

DRAFT FINDING 9.3

The Commission does not support deeming initial liability claims at this stage. Progress on the Veteran Centric Reform program in the Department of Veterans' Affairs should continue to significantly improve the efficiency of claims processing and management. Should these reforms fail to deliver further significant improvements in the timely handling of claims, then the need for statutory time limits should be reconsidered.

DRAFT RECOMMENDATION 9.3

If the Department of Veterans' Affairs' quality assurance process identifies excessive error rates (for example, greater than the Department's internal targets), all claims in the batch from which the sample was obtained should be recalled for reassessment.

DRAFT FINDING 9.4

External medical assessors provide useful diagnostic information about veterans' conditions and are a necessary part of the claims process for the veteran support system. However, they should only be called upon when strictly necessary and staff should be provided with clear guidance to that effect. The Department of Veterans' Affairs needs to ensure that the current review into external medical assessors fully considers all aspects of Recommendation 10 of the Senate committee inquiry into veteran suicide.

DRAFT FINDING 9.5

Under the Department of Veterans' Affairs' (DVA's) stewardship, the Veteran Centric Reform (VCR) program has produced a number of early successes. However, given DVA's poor history of change management, close supervision and guidance will be required to ensure VCR continues to be successfully rolled out. Regular progress reporting and ongoing assurance reviews will facilitate this outcome.

DRAFT FINDING 9.6

Ex-service organisations play an important role in the veteran support system. However, the lack of coordination among them may be diluting their effectiveness.

Reviews

Most decisions made by DVA to provide (or not provide) compensation or support to veterans can be challenged through administrative review processes. However, there are a number of issues with the existing processes which warrant reform and a common approach is required for all claims.

DRAFT FINDING 10.1

Current review processes are ensuring that many veterans receive the compensation or support that they are entitled to under the law, albeit sometimes with significant delays. The majority of cases that are reviewed externally result in a change to the original decision made by the Department of Veterans' Affairs.

DRAFT FINDING 10.2

The Veterans' Review Board and Administrative Appeals Tribunal are not providing sufficient feedback from their review processes to the Department of Veterans' Affairs to better inform decision-making practice. Further, the Department is not incorporating the limited available feedback into its decision-making processes. This means that opportunities for process improvement are being missed.

DRAFT RECOMMENDATION 10.1

The Department of Veterans' Affairs (DVA) should ensure that successful reviews of veteran support decisions are brought to the attention of senior management for compensation and rehabilitation claims assessors, and that accuracy of decision making is a focus for senior management in reviewing the performance of staff. Where the Veterans' Review Board (VRB) identifies an error in the original decision of DVA, it should clearly state that error in its reasons for varying or setting aside the decision on review. The Australian Government should amend the *Veterans' Entitlements Act 1986* to require the VRB to report aggregated statistical and thematic information on claims where DVA's decisions are varied through hearings or alternative dispute resolution processes. This reporting should cover decisions of the Board, as well as variations made with the consent of the parties through an alternative dispute resolution process. This should be collected and provided to DVA on a quarterly basis and published in the VRB's annual report. DVA should consider this reporting and respond by making appropriate changes to its decision-making processes.

DRAFT FINDING 10.3

While many veterans are managing to negotiate the current pathways for reviews of decisions made under the various veteran support Acts, there are unjustified differences and complexities in the rights of review available to claimants under each Act.

DRAFT FINDING 10.4

The Veterans' Review Board, while highly regarded by veterans, has functions that overlap with those of the Administrative Appeals Tribunal. Rather than being used occasionally to resolve difficult or exceptionally difficult cases, the Department of Veterans' Affairs is relying on the Board's external merits review as a standard part of the process for addressing many claims.

DRAFT RECOMMENDATION 10.2

The Australian Government should introduce a single review pathway for all veterans compensation and rehabilitation decisions. The pathway should include:

- internal reconsideration by the Department of Veterans' Affairs. In this process, a different and more senior officer would clarify the reasons why a claim was not accepted (partially or fully); request any further information the applicant could provide to fix deficiencies in the claim, then make a new decision with all of the available information

- review and resolution by the Veterans' Review Board, in a modified role providing alternative dispute resolution services only (draft recommendation 10.3)
- merits review by the Administrative Appeals Tribunal
- judicial review in the Federal Court of Australia and High Court of Australia.

DRAFT RECOMMENDATION 10.3

The Australian Government should amend the role and procedures of the Veterans' Review Board (VRB). Rather than making decisions under the legislation, it would serve as a review and resolution body to resolve claims for veterans. All current VRB alternative dispute resolution processes would be available (including party conferencing, case appraisal, neutral evaluation and information-gathering processes) together with other mediation and conciliation processes. A single board member could recommend the correct and preferable decision to be made under the legislation, and the Department of Veterans' Affairs and the claimant could consent to that decision being applied in law. Cases that would require a full board hearing under the current process, or where parties fail to agree on an appropriate alternative dispute resolution process or its outcomes, could be referred to the Administrative Appeals Tribunal. Parties to the VRB resolution processes should be required to act in good faith.

DRAFT RECOMMENDATION 10.4

The Australian Government should conduct a further review in 2025 on the value of the continuing role of the Veterans' Review Board, once significant reforms to the initial claim process for veterans are established. In particular, the review should consider whether reforms have reduced the rate at which initial decisions in the veteran support system are varied on review. If the review finds that the Board is no longer playing a substantial role in the claims process, the Australian Government should bring the alternative dispute resolution functions of the Board into the Department of Veterans' Affairs or its successor agency.

INFORMATION REQUEST 10.1

The Commission is seeking further information on whether there are any decisions that are not reviewable, that should be reviewable.

Governance and funding

Under the current governance arrangements, no single agency has responsibility for the lifetime wellbeing of veterans. Strategic policy in the veteran support system appears to be largely reactive, with changes often making the system more complex and expensive. Also, the veteran support system, which has large contingent liabilities, is funded on a short-term basis, and long-term costs are poorly understood. New governance and funding arrangements are required to develop and administer a new veteran support system for future generations of veterans and their families.

DRAFT RECOMMENDATION 11.1

A new 'Veteran Policy Group', headed by a Deputy Secretary, should be created in Defence with responsibility for veteran support policies and strategic planning. Ministerial responsibility for veterans' affairs should be vested in a single Minister for Defence Personnel and Veterans within the Defence portfolio.

DRAFT RECOMMENDATION 11.2

The Australian Government should establish a new independent Commonwealth statutory authority, the Veteran Services Commission (VSC), to administer the veteran support system. It should report to the Minister for Defence Personnel and Veterans and sit within the Defence portfolio (but not within the Department of Defence). An independent board should oversee the VSC. The board should be made up of part-time Commissioners appointed by the Minister who have a mixture of skills in relevant civilian fields, such as insurance, civilian workers' compensation and project management, as well as some with an understanding of military life and veteran issues. The board should have the power to appoint the Chief Executive Officer (responsible for the day-to-day administration). The functions of the VSC should be to:

- achieve the objectives of the veteran support system (draft recommendation 4.1) through the efficient and effective administration of all aspects of that system
- manage, advise and report on outcomes and the financial sustainability of the system, in particular, the compensation and rehabilitation schemes
- make claims determinations under all veteran support legislation
- enable opportunities for social integration
- fund, commission or provide services to veterans and their families.

The Australian Government should amend the *Veterans' Entitlements Act 1986* and the *Military Rehabilitation and Compensation Act 2004* to abolish the Repatriation Commission and Military Rehabilitation and Compensation Commission upon the commencement of the VSC.

Response: This would be too big a responsibility for one minister and there would be insufficient scrutiny by the government of veterans' support and once again the Productivity Commission is trying to compare veteran welfare, repatriation and benefits with civilian workers compensation. There is simply no comparison.

DRAFT RECOMMENDATION 11.3

The Australian Government should establish a Veterans' Advisory Council to advise the Minister for Defence Personnel and Veterans on veteran issues, including the veteran support system. The Council should consist of part-time members from a diverse range of experiences, including civilians and veterans with experience in insurance, workers' compensation, public policy and legal fields.

Response: The suggestion of providing advice to veterans is good, but not if it is compared to civilian workers compensation. If possible, the advice should only come from veterans who have served overseas in a war zone for a period of not less than six months. There are plenty of professional people in this category, especially National Service Vietnam Veterans.

DRAFT RECOMMENDATION 11.4

The Australian War Memorial (AWM) already plays a significant and successful role in commemoration activities. As a consequence of the proposed governance and administrative reforms, the Australian Government should transfer primary responsibility for all commemoration functions to the AWM, including responsibility for the Office of Australian War Graves.

DRAFT RECOMMENDATION 11.5

Once the new governance arrangements in draft recommendations 11.1 and 11.2 have commenced, the Australian Government should make the veteran support system a fully-funded compensation system going forward. This would involve levying an annual premium on Defence to enable the Veteran Services Commission to fund the expected future costs of the veteran support system due to service-related injuries and illnesses incurred during the year.

Response: What if a future government cuts Defence funding? Is that just bad luck for the veteran as he will just have to accept a cut in his benefits. The only reason one would propose such a scheme is so the government commitment and funding to veterans could be cut, resulting in cost savings. What a terrible reflection on our nation.

INFORMATION REQUEST 11.1

The Commission is seeking feedback on the extent and design of the veteran support system funding model, particularly whether the fully-funded system should cover future liabilities only, or whether existing liabilities (including the Veterans' Entitlements Act 1986) should be capitalised into the insurance pool.

The compensation package:

The compensation package is complex — with offsetting provisions applying between the three main compensation Acts, and a system of superannuation invalidity and life insurance operating alongside the compensation system. Reform is needed to simplify the system and improve equality between veterans.

DRAFT RECOMMENDATION 12.1

The Australian Government should harmonise the compensation available through the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) with that available through the *Military Rehabilitation and Compensation Act 2004*. This would include harmonising the processes for assessing permanent impairment, incapacity and dependant benefits, as well as the range of allowances and supplements. Existing recipients of DRCA permanent impairment compensation and dependant benefits should not have their permanent impairment entitlements recalculated. Access to the Gold Card should not be extended to those eligible for benefits under the DRCA.

DRAFT FINDING 12.1

The principle of not providing two sources of income replacement to the same veteran is sound. There is no case for changing the current offsetting arrangements between government-funded superannuation payments and incapacity payments.

DRAFT RECOMMENDATION 12.2

The Department of Veterans' Affairs (DVA) and the Commonwealth Superannuation Corporation (CSC) should work together to streamline the administration of superannuation invalidity pensions and veteran compensation, including by:

- moving to a single 'front door' for invalidity pensions and veteran compensation
- moving to a single medical assessment process for invalidity pensions and veteran compensation
- developing information technology systems to facilitate more automatic sharing of information between DVA and CSC. With the establishment of the proposed Veteran Services Commission (draft recommendation 11.2), consideration should be given to whether it should administer the CSC invalidity pensions.

INFORMATION REQUEST 12.1

What are the costs and benefits of further integration between superannuation insurance benefits and the veteran compensation scheme, and how might this integration be achieved?

Compensation for an impairment

There are a number of changes that could be made to permanent impairment payments under the *Military Rehabilitation and Compensation Act 2004* that would simplify the payments, improve access and equity.

The veteran permanent impairment and incapacity payments, and dependant benefits include many provisions that are unique to the veteran compensation system — they do not have parallels in other workers' compensation schemes. And there is little rationale for a number of these payments. They also add complexity, lead to inequities and can hinder the rehabilitation focus of the veteran support system. Most of these provisions do not lead to large increases in compensation — removing or improving these provisions is unlikely to have a substantial effect on the compensation received by veterans.

DRAFT RECOMMENDATION 13.1

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the requirement that veterans with impairments relating to warlike and non-warlike service receive different rates of permanent impairment compensation from those with peacetime service. The Department of Veterans' Affairs should amend tables 23.1 and 23.2 of the Guide to Determining Impairment and Compensation to specify one rate of compensation to apply to veterans with warlike, non-warlike and peacetime service.

Response: What a disturbing and disappointing recommendation to suggest that veteran warlike rates of permanent impairment compensation should be the same as those with peacetime service. The veteran's permanent impairment is the result of him or her putting their life on the line for their country. Surely, they are owed a far greater level of compensation to someone whose impairment occurred during peacetime service.

INFORMATION REQUEST 13.1

The Commission is seeking information on the new level of permanent impairment compensation that would be reasonable, taking into account the costs, benefits and equity implications to veterans, governments and the broader community.

DRAFT FINDING 13.1

The requirements that a condition be permanent and stable before final permanent impairment compensation is granted, under the *Military Rehabilitation and Compensation Act 2004*, are needed to prevent veterans from being overcompensated for impairments that are likely to improve.

DRAFT RECOMMENDATION 13.2

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the option of taking interim permanent impairment compensation as a lump-sum payment. The Act should be amended to allow interim compensation to be adjusted if the impairment stabilises at a lower or higher level of impairment than what is expected within the determination period.

Response: Another recommendation solely based on government cost saving.

DRAFT RECOMMENDATION 13.3

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to allow the Department of Veterans' Affairs the discretion to offer veterans final permanent impairment compensation if two years have passed since the date of the permanent impairment claim, but the impairment is expected to lead to a

permanent effect, even if the impairment is considered unstable at that time. This should be subject to the veteran undertaking all reasonable rehabilitation and treatment for the impairment.

RT VETERANS

DRAFT FINDING 13.2

There is little rationale for providing additional non-economic loss compensation to veterans for having children, and the current payment leads to inequities and complexities. This payment is unique to the veteran compensation system.

Response: Surely veterans with dependent children have higher costs of living.

DRAFT RECOMMENDATION 13.4

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the permanent impairment lump-sum payments to the veteran for dependent children and other eligible young persons.

Response: Surely veterans with dependent children have higher cost of living.

DRAFT RECOMMENDATION 13.5

The Department of Veterans' Affairs should review its administration of lifestyle ratings in the *Military Rehabilitation and Compensation Act 2004* (MRCA), to assess whether the use of lifestyle ratings could be improved. If the use of lifestyle ratings cannot be improved, the Australian Government should amend the MRCA and the Guide to Determining Impairment and Compensation to remove the use of lifestyle ratings and provide veterans permanent impairment compensation consistent with the lifestyle ratings that are currently usually assigned for a given level of impairment. Existing recipients of permanent impairment compensation should not have their compensation reassessed.

INFORMATION REQUEST 13.2

The Commission is seeking further information on the costs and benefits of removing the remuneration loading and replacing it with superannuation contributions for veterans with long-term incapacity. What are the barriers to providing superannuation to veterans on incapacity payments, and how could these be overcome?

DRAFT RECOMMENDATION 13.6

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the option of taking the special rate disability pension. Veterans that have already elected to receive the special rate disability pension should continue to receive the payment.

DRAFT FINDING 13.3

Changes to eligibility for the service pension and other welfare payments means that the package of compensation received by veterans on the special rate of disability pension is reasonable. Despite strong veterans' representation on this issue, there is no compelling case for increasing the rate of the pension.

Response: In other words, the Productivity Commission didn't consider veterans views to be important.

DRAFT RECOMMENDATION 13.7

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* (MRCA) to remove automatic eligibility for benefits for those dependants whose partner died while they had permanent impairments of more than 80 points or who were eligible for the MRCA Special Rate Disability Pension.

DRAFT RECOMMENDATION 13.8

The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the additional lump sum payable to wholly dependent partners of veterans who died as a result of their service. The Australian Government should increase the wholly dependent partner compensation by the equivalent value of the lump-sum payment (currently about \$115 per week) for partners of veterans where the Department of Veterans' Affairs has accepted liability for the veteran's death.

Response: What a poor reflection on our society when the life of a veteran, who died as a result of their service, is only valued at \$115 per week.

Streamlining and simplifying additional payments

Many of the payments available to veterans are outdated (some have not changed since the 1920s), do not meet their intended objectives and result in another layer of complexity in the veteran compensation system. The additional payments are mostly small and the benefits do not always outweigh the costs of the added complexity. The following recommendations are about simplifying, streamlining or updating additional payments so they better meet their objectives.

DRAFT RECOMMENDATION 14.1

The Australian Government should amend the *Social Security Act 1991* and relevant arrangements to exempt Department of Veterans' Affairs adjusted disability pensions from income tests for income-support payments that are currently covered by the Defence Force Income Support Allowance (DFISA), DFISA Bonus and DFISA-like payments. The Australian Government should remove the DFISA, DFISA Bonus and DFISA-like payments from the *Veterans' Entitlements Act 1986*.

DRAFT RECOMMENDATION 14.2

To align education payments across the veteran support system, the Australian Government should amend the *Veterans' Entitlements Act 1986* and the *Military Rehabilitation and Compensation Act 2004* to remove education payments for those older than 16 years of age. Those who pass a means test will still be eligible for the same payment rates under the Youth Allowance. To extend education payments for those under 16 years of age, the Australian Government should amend the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* to adopt the Military Rehabilitation and Compensation Act Education and Training Scheme.

DRAFT RECOMMENDATION 14.3

To help simplify the system, smaller payments should be consolidated where possible or removed where there is no clear rationale. The Australian Government should remove the DRCA Supplement, MRCA Supplement and Veteran Supplement, and increase clients' payments by the equivalent amount of the supplement. The Australian Government should remove the Energy Supplement attached to Department of Veterans' Affairs' impairment compensation, but other payments should remain consistent with broader Energy Supplement eligibility.

DRAFT RECOMMENDATION 14.4

To streamline and simplify outdated payments made to only a few clients, they should be paid out and removed. The Australian Government should amend the *Veterans' Entitlements Act 1986* to remove the recreation transport allowance, the clothing allowance and the decoration allowance and pay out those currently on the allowances with an age-adjusted lump sum.

DRAFT RECOMMENDATION 14.5

The Australian Government should amend the *Veterans' Entitlements Act 1986* (VEA) to remove the attendant allowance and provide the same household and attendant services that are available under the *Military Rehabilitation and Compensation Act 2004* (MRCA). Current recipients of the VEA allowance should be automatically put on the same rate under the new attendant services program. Any further changes or claims would follow the same needs-based assessment and review as under the MRCA.

DRAFT RECOMMENDATION 14.6

The Australian Government should amend the *Veterans' Entitlements Act 1986* Vehicle Assistance Scheme and section 39(1)(d) (the relevant vehicle modification section) in the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* so that they reflect the *Military Rehabilitation and Compensation Act 2004* Motor Vehicle Compensation Scheme.

Health care

An efficient and effective veteran health system needs to target the right services to the right people in terms of need (financially or in terms of health requirements). Some of the eligibility criteria for the veteran health system potentially needs to be re-targeted towards ensuring that those in most need receive the most care. DVA also needs to improve its monitoring of client outcomes and service providers' effectiveness.

DRAFT FINDING 15.1

Funding the treatment of service-related conditions, as is done through the White Card, is well-justified — it appropriately targets veterans with health needs and is similar to workers' compensation healthcare entitlements.

The Gold Card, however, runs counter to a number of the key principles that should underlie a future scheme — it is *not* needs based (because it is not targeted to service-related health needs), wellness focused (there can be an incentive to remain unwell), or efficient (by potentially encouraging over-servicing).

Response: This is another example where the commission has failed to understand the difference between a war veteran and a civilian. The Gold Card to a war veteran is more than just a card for health related services. It is a form of recognition that the country expects these veterans to be entitled to a special level of care and benefits following their service related injury or disability. The fact the card is 'Gold' is recognition in itself, that these individuals are special.

DRAFT RECOMMENDATION 15.1

Eligibility for the Gold Card should not be extended to any new categories of veterans or dependants that are not currently eligible for such a card. No current Gold Card holder or person who is entitled to a Gold Card under current legislation would be affected.

INFORMATION REQUEST 15.1

Given the Gold Card runs counter to a number of key design principles, the Commission is seeking feedback on whether a future system should have a coloured health card system. If not, what are the other options?

In particular, the Commission is seeking feedback on the benefits and costs of providing the Gold Card to dependants, service pensioners and veterans with qualifying service at age 70.

Response: The Gold Card for dependants, service pensioners and veterans with qualifying service at age 70 is simply a small way of thanking veterans for their service to the nation. If anything, it should be extended to a wider range of veterans, maybe every veteran who has served in a war zone for at least six months. A Gold Card really means a lot to war veterans in their later years and the fact it isn't means tested conveys the message that it is in recognition of service and not just a payment for medical and other services. It also recognises that this group haven't been in receipt of other war related benefits since their war service and now the government can do something to recognise their service to the nation. The card is 'Gold' because the country recognises these individuals as being special.

DRAFT RECOMMENDATION 15.2

The Department of Veterans' Affairs should amend the payments for the Coordinated Veterans' Care program so that they reflect the risk rating of the patient that they are paid for — higher payments for higher risk patients and lower payments for lower risk patients. Doctors should be able to request a review of a patient's risk rating, based on clinical evidence.

Response: Once again the productivity Commission is looking at ways of reducing the cost of veteran's benefits and entitlements. War veterans are people who put their life on the line for their country and they have earned the right to be considered deserving of payments that take this into account. Surely, we shouldn't be quibbling over some cost savings simply because one patient may have a slightly greater need than another.

DRAFT RECOMMENDATION 15.3

The current (2013–2023) Veteran Mental Health Strategy has not been very effective and should be updated in light of recent policy changes (such as non-liability access) and research findings on emerging needs. The Department of Veterans' Affairs (DVA) (in consultation with the Departments of Health and Defence) should urgently update the Veteran Mental Health Strategy, so that it guides policy development and implementation over the medium term. It should:

- be evidence-based, including outcomes from policy trials and other research on veterans' mental health needs
- set out clear priorities, actions and ways to measure progress
- commit DVA to publicly report on its progress.

The Strategy should include ways to promote access to high-quality mental health care, and to facilitate coordinated care for veterans with complex needs. It should also have suicide prevention as a focus area and explicitly take into account the mental health impacts of military life on veterans' families.

DRAFT RECOMMENDATION 15.4

The Department of Veterans' Affairs (DVA) should monitor and routinely report on Open Arms' outcomes and develop outcome measures that can be compared with other mental health services. Once outcome measures are established, DVA should review Open Arms' performance, including whether it is providing adequate, accessible and high-quality services to families of veterans.

INFORMATION REQUEST 15.2

The Commission is seeking participants' views on fee-setting arrangements for veterans' health care that would promote accessible services while maintaining a cost-effective system. What would be the benefits and costs of separate fee-setting arrangements for Gold Card and White Card holders? To allow cardholders more choice of provider, should providers be allowed to charge co-payments? Should co-payments, if permitted, be restricted to treatment of non-service related conditions?

Response: We have seen how Governments over the years have allowed the Medicare gap to widen for patients using private health providers and the arguments over how much a doctor should charge for their service. The last thing we would want to see is where veterans are left significantly out of pocket because of a co-payment scheme. Veterans deserve better than being asked to contribute under a co-payment scheme. My experience has shown that most medical providers don't expect to receive greater remuneration where veterans are concerned.

INFORMATION REQUEST 15.3

The Commission is seeking participants' views on the desirability of subsidising private health insurance for veterans and dependants in place of other forms of healthcare assistance.

Response: Private Health Care is expensive, but important and I would think most reasonably well-off veterans would have the cover, but I would be reluctant to suggest it should be considered as a replacement to other existing forms of healthcare assistance. Surely, a government has a responsibility to ensure its veterans receive government healthcare assistance.

Data and evidence

The gaps in information about veterans are significant and there is limited evidence on the effectiveness of services provided to veterans. This inquiry was limited by the lack of data and the poor linking of data. Reform is needed to improve data held on veterans and build an evidence base on what does and does not work.

DRAFT FINDING 16.1

There is a lack of robust data and evidence on many crucial aspects of the veteran support system. This impedes the design and delivery of effective supports for veterans and their families.

DRAFT RECOMMENDATION 16.1

The Department of Veterans' Affairs should develop outcomes and performance frameworks that provide robust measures of the effectiveness of services. This should include:

- identifying data needs and gaps
- setting up processes to collect data where not already in place (while also seeking to minimise the costs of data collection)
- using data dictionaries to improve the consistency and reliability of data
- analysing the data and using this analysis to improve service performance.

Response: The Productivity Commission's recommendations have requested numerous bodies be set up to monitor the effectiveness and costs associated with the various veteran benefits and payments. I tend to think the cost of setting up, employing thousands of people to carry out the monitoring and maintaining such bodies will far exceed any saving or benefits to be gained from such monitoring. This is likely to result in less money in the kitty for veteran's welfare.

DRAFT RECOMMENDATION 16.2

The Department of Veterans' Affairs should conduct more high-quality trials and reviews of its services and policies for veterans and their families by:

- evaluating services and programs (in ways that are commensurate with their size and complexity)
- publishing reviews, evaluations and policy trials, or lessons learned
- incorporating findings into future service design and delivery.

DRAFT RECOMMENDATION 16.3

The Department of Veterans' Affairs should set research priorities, publish the priorities in a research plan and update the research plan annually.

Bringing it all together

One of the key drivers for this inquiry was the complex legislative framework underpinning the veteran compensation system. The Commission is proposing simplifying the system by moving to two schemes, while minimising disruption to existing claimants. Importantly, our proposed changes will mean there will be one scheme and one Act in the long term. Although legislative simplification is not a solution for all the issues facing the veteran support system, and some complexity will remain, this approach sets up Australia to have much better, fit-for-purpose compensation and rehabilitation arrangements for the future.

Response: Simplifying the system has merit, but I'm not convinced there is anything in the Productivity Commission's findings that will necessarily achieve that result, especially the recommendation to do away with the existing DVA body. To simplify DVA you only need to reduce the criteria around veteran's assessment. Maybe, you will end up paying a little more for the health services, but there will be assessment savings. For instance, why not give every war veteran with six months service in a war zone a Gold Card. Obviously, the cost will be significant, but you immediately remove the need for veterans to be assessed or go through a tribunal process. Those savings alone would be immense.

Malcolm Whitney

9 January 2018