

The attached document (IN CONFIDENCE) has been submitted to DVA as a complaint and is relevant here in that it provides detail relating to poor decision making, non-compliance with legislation and non-compliance with published Policy at many levels within DVA. It also details a history of adversarial conduct by DVA or its Agents having little regard to facts and in fact relying on “evidence” proven to be false to make adverse findings.

One of the key matters on which this has ultimately rested is the utter confusion delegates and others have when faced with matters that span the magical date divide of 1 July 2004. It would appear that this matter is NOT addressed in the Productivity Commission Draft Report of December 2018. The *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* is NOT mentioned in the Draft Report. The Transitional Provisions of 2004 establish the “before, on and after” mechanism critical for transitional fairness and MRCA Policy reflects those provisions, but, as in the Draft Report, it has simply not been recognised in assessments – even when directly referenced. Failure at many levels!

The 2004 matter is further complicated by the assessment regime that applies different standards for a matter that is divided by date, (but not “before, on and after” which becomes MRCA). A matter entirely after 1 July 2004 can apply a Statement of Principles. The same matter just one day prior cannot. How can that be fair to either party (or the assessment)?

The complaint (IN CONFIDENCE) makes the point that DVA (in whatever form) has made critical and rather obvious errors in law and in decisions BUT has NEVER acknowledged or apologised for those errors. How can there be confidence in an administration that will not acknowledge such errors? If a decision is reviewed, even if the ultimate outcome is not favourable, would it not be reasonable that original mistakes (high impact errors or errors in law) should be acknowledged and corrected?

While expert legal advice would suggest my claim is valid and I would expect to eventually succeed, the fact that it has taken so long (since 2012) and consisted of a chain of such unbelievably poor administration and decision making makes it just another example of why some ex-service people self-harm or worse when subjected to this process.

Decision Review Process

The interim report alleges that DVA has a decision review process but the attached complaint shows the very clear recent example where more than one obvious “high-impact error” has not been detected proving the process remains clearly flawed.

This extends to the VRB process. Pages 393 and 394 of the Draft Report illustrate what should happen in the VRB process. On recent experience – this is NOT what happens because if it was the matters raised would have been resolved or at the very least addressed. The culture of claim denial has remained very much alive and well recently.

Advocacy

Separate to the matters raised above, the Draft Report mentions Advocacy. While the volunteer Advocates perform a useful first contact service, where matters become complex their usefulness decreases exponentially. Advocates are generally just not equipped to manage complex or unusual claims alone, nor should they be expected to do so. It would be beneficial to appoint a DVA **subject matter expert** as liaison to ANY claim considered to be in any way unusual but particularly where the delegate is considering refusal. This should effect a major decrease in errors, be more beneficial to clients and further educate Advocates.