

WAR WIDOWS' GUILD OF AUSTRALIA INC.

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RESPONSE TO DRAFT REPORT OF THE PRODUCTIVITY COMMISSION INQUIRY INTO COMPENSATION AND REHABILITATION FOR VETERANS

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INTRODUCTION

The material in this document reflects the views of the War Widows Guild of Australia along with those of its constituent state bodies. In general, the Guild has no objection to any action to make more efficient the mechanisms that enable benefits to be made available to ex-serving personnel and their dependants. However, the Guild strongly rejects the assertion that the Department of Veterans' Affairs "is not fit for purpose".

It believes that serving in the Australian Defence Force is not equivalent to civilian occupations and, as such, strongly opposes any moves to turn the compensation and rehabilitation system into a simple, civilian-equivalent, workers' compensation scheme.

Military service is unique in the community and comes with significant risks, not only for the member but for their entire family. The Defence family is expected to move frequently, meaning spouses/partners and children are uprooted from their places of employment, schools, friends, family and neighbourhoods. Often there is little or no prospect of re-employment in the new location. Family support may not be available, and friends are not nearby. All this means families can suffer as significantly as the member.

A member joins the military committed to performing a service at the behest of political leadership with no ability to refuse and with the knowledge that from time to time, they are asked to put their lives on the line. Lives are lost or members suffer serious physical and psychological injuries, both of which have a severe impact on their families and loved ones. The extra benefits afforded ADF members and ex-members is one of the strong incentives to join what is an all-volunteer force and compensation for the hardships not necessarily experienced by those in civilian employment.

For all those reasons and others as outlined below, the Guild believes veterans and their families deserve special consideration.

A response is provided to each recommendation and, where appropriate, to information requests. Several other issues, not covered in the recommendations, are outlined below.

The War Widows' Guild were disappointed to note that the Productivity Commission did not address the issues of:

1. Residential Aged care
2. Family Law matters
3. Booked care with Driver
4. Funeral benefit discrepancies

OTHER ISSUES:

1. Aged Care

The Guild notes there has been no examination by the Commission of the inequity relating to the on-going cost of War Widows living in aged care facilities (original submission, 2.1 page 4). The Guild asks the Commission to re-examine its original submission to the enquiry which provided an example showing that a War Widow would pay \$13,180 a year more than a Special Rate veteran in the same circumstances.

This is a result of the War Widow's compensation payment – their pension – being treated as assessable income for the purpose of accessing aged care or home care, whereas the Special Rate pension is not (see 2.1 on page 4 of the original submission).

Recent figures indicate there is a total of 4894 veterans with qualifying service currently in aged care (including 392 receiving a pension at the Special Rate and 602 receiving the Extreme Disablement Adjustment) compared to 11,299 War Widows. This means War Widows are paying around \$148 million dollars more than veterans for their care.

The Guild again requests that the Commission examines these issues and recommends that the War Widows pension be excluded from assessable income for the purposes of aged care.

2. Family Law matters

The Guild notes that the Commission has not addressed the issue of treatment of War Widows' compensation payments in Family Law proceedings.

In the Guild's initial submission to the enquiry (2.2 on page 6), the Guild outlined a case that had the potential to place a younger widow at severe financial disadvantage through no fault of her own.

The Guild requests that the Commission revisit this situation in its final report and recommend that compensation payments be quarantined in Family Law matters.

3. Booked Car with Driver

Currently, Gold Card holders who require transport to attend medical appointments and are under 80 years of age, not blind and not suffering dementia, are not eligible for the Booked Car with Driver scheme (taxi or hire car). The Guild asks the Commission to recommend that the age limit be reduced to 75 (see original submission 3.1 page 8).

4. Funeral benefits under the VEA

The current funeral benefit payable by DVA to those under the VEA is up to \$2000 and is not indexed. Under DRCA and MRCA this payment is more than \$12,000 and is indexed. There is a clear inequity in the level of payments and the Guild asks that the Commission recommend bringing all funeral benefits into line with MRCA/DRCA (see original submission, 2.3 page 8).

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.

The War Widows Guild of Australia (WWG) agrees that wellness and a whole-of-life approach to the support of veterans should be the overarching goal of any veteran support system and that this should be focused on ability rather than disability. This goal should be higher in priority than any financial considerations.

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.

Agree.

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.

Agree

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).

Agree

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?

The WWG has limited knowledge of the Sentinel system and whether it contributes to under-reporting, however, there is ample evidence that serving members often deliberately fail to report or understate the extent of injuries and illnesses, fearing this will affect their chances of deployment and promotion or even lead to medical discharge. In many cases these fears are real, but failure to report can have serious consequences later. For example, an ex-serving member seeking compensation or rehabilitation later, may not be able to produce the necessary evidence of an injury or illness to allow a claim to be paid.

At the same time, it is not uncommon for veterans to lodge a claim for compensation only to find that the ADF has lost their medical records. In the majority of such cases, DVA is unable to accept the claim because, again, there may be no evidence of the injury or illness having occurred. The solution to this dilemma lies with the ADF.

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.

Agree

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.

Agree

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.

Agree.

The WWG notes that DVA's interaction with rehabilitation providers currently appears restricted to ensuring they fulfil the terms of their contracts. There is little or no evaluation of the success or otherwise of a client's treatment. The WWG also supports earlier intervention for rehabilitation i.e.; prior to discharge from the ADF.

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.

Agree.

The WWG believes that the ADF should be talking to its members about transition from the first day they enter the ADF. The ADF provides comprehensive transition services through the Defence Community Organisation (DCO), which also undertakes monitoring of members post-separation. However, the Guild understands that DCO has only 30 staff available to monitor the approximately six thousand members who separate each year. This is insufficient. In addition, documentation sighted by the Guild clearly indicates that senior members of the ADF tend to get a greater level of support than those of lower rank. Support must be made available to all equally, particularly to those most in need.

The Guild is also concerned that the level of transition support can often be influenced by individual commanding officers or those in the chain of command managing the transition. Also affecting the transition is the time of year it is carried out. No transitions should occur in the traditional ADF "down" times of December and January when large sections of the Force are on leave.

In addition, transitions should not occur if the separating member is suffering any physical or psychological illness but be deferred until wellness is restored to as high a level as possible.

The Guild believes establishment of a Joint Transition Command is desirable to overcome these issues.

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.

Agree.

See above.

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.

Agree.

In addition, the WWG believes that the Department of Veteran's Affairs should consider making a contribution to the education or training of spouses in cases where a veteran for whatever reason, is unable to take part in education and training him or herself (see response to Information Request 7.2 below).

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.

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.

In respect of 7.1, the WWG believes the period should be a minimum of 12 months, but the Joint Transition Command should consider extending that period on a need's basis particularly for those at risk.

Re 7.2, given that a veteran is defined as someone who has served one day or more in the ADF, then perhaps the allowance should be extended to all who have served. Alternatively, a minimum could be completion of basic and speciality training for enlisted men and women and completion of the Duntroon, ADFA and similar courses for officers. Another option could be after completing a war-like deployment or four years' service, whichever comes first. The rate of allowance should be equivalent to the prevailing Austudy payment (currently a maximum of \$499.90 a fortnight) plus a loading of – say – 10% to recognise service. Means testing could also be applied.

The Commission might also like to examine the United States GI Bill (and several other similar US programs) which has a number of qualifications for educational assistance, including what the US calls "honourable discharge" and minimum periods of service.

(<https://www.va.gov/education/eligibility/>)

Re 7.3, given that Reserves generally have civilian employment or are retired from the workforce, the WWG believes transition services for Reserve personnel may be minimal or not be required.

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.

Agree.

Anything that improves and simplifies the initial liability process and is more focused on the needs of the client is welcomed.

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.

Agreed

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.

Agreed

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.

Agreed.

This should particularly apply to staff involved in assessing claims and making determinations. These staff should be encouraged to have personal interactions with clients whose cases they are handling rather than enquiries being handled by Veterans Service Centre (VSC) staff. While VSC staff have general expertise in a wide range of departmental functions, this is no substitute for clients being able to deal one on one with the officer handling their claim.

Weekly or monthly clinical supervision should be provided to staff dealing with clients to maintain and safeguard the staff members' mental health and wellbeing. **Clinical supervision** is a formal and disciplined working alliance that is generally, but not necessarily, between a more experienced and a less experienced worker, in which the supervisee's work is reviewed and reflected upon, with the aims of: improving the supervisee's work with clients; ensuring client welfare; supporting the supervisee in relation to their work, and supporting the supervisee's professional development.

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.

The WWG wishes to comment on this draft finding.

It is vital that DVA is adequately funded to meet the expectations of clients. For too long, this has not been the case, exacerbated by the blunt instrument of the "efficiency" dividend. While it's true the client base is shrinking, the work of the Department in dealing with younger veterans and their dependents, is becoming more complex. The dollars X number of clients' formula for funding has not been suitable in past years and is certainly not suitable now and into the future. While some additional funding has been made available in recent times, as the Commission says, it has been ad hoc. In due course, the full implementation of improved ICT systems and a possible expansion of shared services will bring much improved cost savings, although this has some way to go before being realised.

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.

Agreed.

This is a sensible quality assurance process.

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.

Agreed.

As with 9.3, this is sensible quality assurance, but there needs to be some assurance that this will improve the process and not just add another layer of work.

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.

Agree.

In respect of the first dot point, the WWG suggests that the more senior officer be at least Executive Level 1 to bring seniority and experience to the process.

In regard of dot point two, the WWG only supports subject to a trial prior to any implementation.

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.

Agree. It is assumed a legal definition of "good faith" will be applied:

Good faith is an abstract and comprehensive term that encompasses a sincere belief or motive without any malice or the desire to defraud others. It derives from the translation of the Latin term bona fide and courts use the two terms interchangeably.

<https://legal-dictionary.thefreedictionary.com/good+faith>

It should, for example, be required that clients present all information relevant to their claim at the time of lodgement and not withhold information until appearing before the VRB in the hope of gaining a more favourable outcome.

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.

Agree.

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.

The WWG opposes the first part of this recommendation.

Policy and strategic planning around the needs of veterans must remain with the body that has responsibility for delivering services to veterans. The Department of Veterans' Affairs already has a Deputy Secretary responsible for policy (and programs) and the Guild sees no advantage in moving this function to the Department of Defence.

The WWG notes that the current Minister (Feb 2019), the Hon Darren Chester, is both Minister for Veterans' Affairs and Defence Personnel. This has been the case at various times in the past. Any decision to split these responsibilities generally rests with the Prime Minister of the time, however, the Guild supports the appointment of a single minister responsible for both portfolios.

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.

Strongly Oppose.

The WWG sees no advantage in abolishing the Department of Veterans' Affairs along with the Repatriation Commission and the Military Rehabilitation and Compensation Commission. The rationale for abolishing DVA and the Commissions appears to be that they are not functioning as best-practice workers' compensation entities. However, as stated elsewhere, the Guild does not believe a veterans' benefits scheme should be analogous to a civilian workers' compensation scheme.

The functions of the proposed VSC would not differ in any real way from the current functions of the Department, except that policy responsibility would be removed. The draft report gives examples of policy functions being separate in other Federal Government departments but does not offer any evidence of this being more efficient. As stated in relation to 11.1, the WWG opposes the removal of policy from the department responsible for delivery of services to veterans.

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.

Strongly oppose.

A Prime Ministerial Advisory Council on Veterans' Mental Health (PMAC) already exists. It should broaden its focus and revert to its original function of advising the Prime Minister (and government) on all matters pertaining to veterans, including mental health and the Terms of Reference should be expanded to include: widows, dependents and families affected/impacted by defence service.

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.

Agree in principal.

The WWG has no objection to these functions being transferred to the Australian War Memorial on the proviso that all funding, personnel and other resources be transferred with it. In particular, the Memorial would need access to data currently held by DVA on the identity and whereabouts of veterans of various conflicts.

The AWM currently has no responsibility for commemorative activities outside of Australia (indeed, outside the precincts of the Memorial) and would need such data to continue the Department's and OAWG's international work. In addition, the Director of the Office of Australian War Graves, being a statutory officer of approximately Senior Executive Service Level One rank, would need to assume the equivalent rank of an Assistant Director (branch head) of the AWM.

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.

Agree in principle.

While this is just cost-shifting between government entities, there needs to be some recognition of and accountability on the part of the ADF for the cost of treating its employees who are injured or ill as a result of their service. Such recognition and accountability should bring costs into sharper focus and strongly encourage measures to keep those costs to a minimum (noting that the Guild disagrees with most of the recommendations in 11.1 and 11.2).

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.

Agreed providing there is no disadvantage to any client affected by this change.

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.

Agree.

The WWG supports any initiative that makes it easier for veterans and their dependents to access benefits to which they are entitled under legislation.

In reference to the final paragraph of this recommendation; the Guild is firmly opposed to the establishment of a Veteran's Services Commission and therefore believes such consideration is irrelevant.

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.

Agree.

Recognising that war-like service is important to veterans, the WWG believes service is service, regardless of how or where it is rendered and that rates should be harmonized at the current higher level. If an ADF member dies or is injured or made ill as a result of a training accident (e.g.; the Blackhawk helicopter crash in 1996), during relief operations (e.g.; the Nias helicopter crash in Indonesia in 2005) or even as a result of a simple workplace accident, then the effect on the member and/or the families left behind is just as severe as if the member died or was injured on active service. The need for compensation, rehabilitation, and support generally, is identical.

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.

Agree.

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.

Agree.

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.

Agree - partially.

This is a lump-sum payment to the veteran to compensate for loss of function etc. Our concern is that the children of the veteran may not benefit from this payment, given that it is paid to the veteran. We are aware that payment (of the same amount) is paid to the dependent children and spouse should the veteran die. This is paid to compensate for loss of a parent and is separate to the initial payment. The Guild questions the necessity of two compensation payments to the same dependents being aware that MRCA is a beneficial legislation. Children of eligible veterans may also access educational payments under the Military Rehabilitation and Compensation Education and Training Scheme 2004.

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.

Agree.

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.

Partially agree.

The WWG agrees with the aim of returning veterans to the highest level of wellness possible and returning them to meaningful employment. However, there will always be those who will be severely and permanently disabled and will require ongoing medical attention and other supports for the rest of their lives. The WWG believes the special rate disability pension should be reserved for those most in need. The decision to grant a special rate disability pension must be made by the appropriate **senior** officer in the Department.

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.

Disagree.

These benefits are paid to the dependents of a member who has been severely impaired as a result of their service. Dependents may be left with little on the death of the member or may have had to sacrifice much over a long period to care for the member in the time leading up to death.

For example, a spouse may have to forgo a life-time career to care for the impaired veteran resulting in a substantial loss of potential income. The WWG believes such sacrifices deserve some measure of compensation, regardless of whether death was a direct result of service or another cause after a period of impairment.

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.

Disagree.

This payment provides financial and emotional support at a time when a spouse most needs it. The payment goes some way towards easing the emotional trauma of losing a loved one and allows some breathing space while the spouse attempts to return to as normal a life as possible.

The WWG also notes that in 2011, the government of the day rejected proposals to change the nature of the additional lump sum payable to wholly dependent partners of veterans who died as a result of their service (*Review of Military Compensation Arrangements, 2011*).

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*.

Agree.

Simplification is welcomed.

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.

Agree in part.

The WWG believes payments should continue to be made to dependent children who remain in full-time education up to the age of 25. The WWG opposes moving those over 16 to the Youth Allowance.

Current VCES and MRCAETS schemes are administered by boards in each state, which not only allocate funding but also have an important welfare role to play. This welfare role includes board members with the appropriate qualifications and an understanding of the challenges brought on by service, liaising with children and parents of those who may be at risk, for whatever reason, and ensuring as much as possible is done to mitigate or eliminate those risks. This service may not be available if dependent children transferred to the Youth Allowance.

The Guild also supports extending all current and future education benefits to DRCA.

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.

Agree in principle.

However, the WWG believes all existing supplements or other small payments should be consolidated and rolled in. This fully consolidated payment must then be indexed in its entirety. While the Energy Supplement, for example, no longer fulfils the purpose it was originally meant for and has not been indexed since 2014, it has been in place for the past six years and to remove it now would have the effect of reducing fortnightly benefits. The WWG believes no one should be worse off as a result of any changes agreed to, regardless of the amount.

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.

Agree

(see above).

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.

Agree providing the same level of service is provided.

The Guild believes War Widows/ers and all other beneficiaries under the VEA should receive the same level of assistance for household services as is provided under MRCA for "home help" – currently a maximum of \$491.67 per week.

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.

Agree.

Provision of a new car every two years is overly-generous and modification of existing vehicles is equitable given that provision of a new vehicle and regular replacement would still be an option where absolutely necessary. The WWG would support the status quo should this benefit be extended to all War Widows.

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.

Disagree strongly.

Firstly, the Medicare system is no substitute for the Gold Card. The Gold Card provides health care to holders as and when they need it at no cost (providing a holder uses a no-gap medical professional). It provides treatment in private hospitals or with a doctor of choice in a public hospital (along with a private room, if available and necessary). Medicare provides no such guarantees as evidenced by the long waiting lists in public hospitals for elective surgery. In addition, *Medicare does not provide for a meaningful dental service with even longer waiting lists at state-funded public dental facilities.*

Secondly, this recommendation takes a purely economic rationalist approach to the issue of Gold Cards. It does not recognise that the cards also have a compensatory component for both the ex-serving member and their dependants. In the case of the ex-serving member, it is compensation for being wounded, injured or contracting either a physical or mental illness *as a result of their service*. The Defence Force is the only occupation (with the possible exception of law enforcement) where employees are required to put their lives on the line, no questions asked. This in itself deserves extra consideration and the Gold Card is one way of providing this consideration.

This extra consideration must also extend to the families of the ex-service person as compensation for the loss of amenity that a disability brings to a family when a loved one, particularly a breadwinner, is no longer able to function at his/her previous level. The same applies to the widow/widower of a serving member who dies *as a result of their service*, providing part compensation for their loss.

The WWG firmly believes that \$23,400 per year per cardholder (as at March 2018) is a small price to pay for the sacrifices the holders have had to make. The Guild further believes that *all* widows/ers of ex-serving members should be granted the Gold Card on reaching the age of 80.

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.

The WWG is strongly opposed to changing the current system of issuing Gold/White/Orange Cards. We believe that the system is providing a service which is acceptable to veterans, widows/ers, dependents and families.

The Guild is unable to comment on the actuarial issues around cost/benefit. However, it has firm views on provision of cards in preference to providing medical care to veterans and dependants via another method such as through the Medicare system (see response to draft recommendation 15.1).

The Guild supports the issuing of the Gold Card to all ex-members with qualifying service at age 70 and favours extending the cards at age 70 to service pensioners and dependants, including widows/ers of members whose death was not as a result of their service. However, it would consider age-linked adjustments similar to those applying to the pension/superannuation age; i.e., a gradual increase in the age of entitlement according to birth year.

The Guild reiterates that the system of coloured cards should not be examined from a purely economic rationalist point of view. There must be recognition of the important compensatory component inherent in them.

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.

Agree.

A model similar to the HCH (Health Care Homes – a similar scheme being trialled by the Department of Health providing three tiers of treatment) would provide better outcomes.

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?

The WWG believes fee-setting for both cards should continue to be a matter of negotiation between the Department of Veterans' Affairs and medical service providers. The Guild acknowledges that this is a difficult area given the current dissatisfaction within the medical community with the level of Medicare rebates generally.

The Guild believes there would be a high level of resistance in the veteran community to the imposition of a co-payment. A co-payment already exists for pharmaceuticals for some DVA clients and although this is relatively small, it is not popular in the veteran community. The WWG believes no Gold Card holder (including War Widows/ers) should be required to make a co-payment.

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.

Agree.

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.

The WWG does not believe it is desirable to replace current health care arrangements with subsidised private health insurance. As previously stated, military service is different to civilian employment and deserves to be treated differently.

What level of coverage would be appropriate (basic, intermediate or top) and what level of subsidy would be acceptable? If the same as for the civilian population (around 30%) veterans would continue to be considerably out of pocket and may not be able to afford private cover. This is amply demonstrated by the current rate of private cover abandonment in the civilian population (in the past three years, private cover has fallen steadily and is now down to about 45% of the population. *Source: APRA*).

The WWG believes the current Gold/White Card system is equitable and should continue.

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.

Agree

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.

Agree.

Essential for the effective delivery of services to clients.

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.

Agree.

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.

Agree.

DRAFT RECOMMENDATION 17.1

By 2025, the Australian Government should create two schemes for veteran support — the current *Veterans' Entitlements Act 1986* (VEA) with some modifications ('scheme 1') and a modified *Military Rehabilitation and Compensation Act 2004* (MRCA) that incorporates the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) ('scheme 2').

Eligibility for the schemes should be modified so that:

- veterans who only have a current or accepted VEA claim for liability at the implementation date will have all their future claims processed under scheme 1. Veterans on the VEA Special Rate of Disability Pension would also have their future claims covered by scheme 1. Veterans under 55 years of age as at the implementation date should be given the option to switch their current benefits and future claims to scheme 2
- veterans who only have a current or accepted MRCA and/or DRCA claim, (or who do not have a current or accepted liability claim under VEA) as at the implementation date will have their future claims covered under scheme 2. Other veterans on MRCA or DRCA incapacity payments would have their future claims covered by scheme 2
- remaining veterans with benefits under the VEA and one (or two) of the other Acts would have their coverage determined by the scheme which is the predominant source of their current benefits, or their age, at the implementation date.

Dependants of deceased veterans would receive benefits under the scheme in which the relevant veteran was covered by. If the veteran did not have an existing or successful claim under VEA as at the implementation date, the dependants would be covered by scheme 2.

Veterans who would currently have their claims covered by the pre-1988 Commonwealth workers' compensation schemes should remain covered by those arrangements through the modified MRCA legislation.

Agree subject to reservations expressed earlier and further clarification of the detailed operation of both schemes.

Meg Green

National President

War Widows' Guild of Australia

20 February 2019