

# PRODUCTIVITY COMMISSION

## INQUIRY INTO COMPENSATION AND REHABILITATION FOR VETERANS



RETURNED & SERVICES  
LEAGUE OF AUSTRALIA  

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QUEENSLAND BRANCH

RESPONSE TO THE DRAFT REPORT

*BY RSL QUEENSLAND*



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## Introduction

The Returned and Services League of Australia (Queensland Branch) (RSL Queensland) has read and considered the very detailed draft report released by the Productivity Commission in December 2018 and appreciates the opportunity to respond to the issues which have been raised. RSL Queensland sought input from Districts and Sub Branches within the State to formulate this response.

RSL Queensland has been supporting our Defence family since 1916. Originally formed by soldiers returned from World War I, RSL Queensland is still run by veterans for veterans. Our members are young and old, female and male. They have served overseas and at home, in armed conflict, peacekeeping missions and disaster recovery.

Today's RSL Queensland is the largest ex-service organisation (ESO) in Queensland, with almost 35,000 members in more than 240 Sub Branches across 10 Districts, offering advice, support and camaraderie to all current and former Australian Defence Force members and their families. RSL Queensland helps veterans and the broader Defence family in real and practical ways, whether they are members or not.

Our services range from assisting with Department of Veterans' Affairs (DVA) claims to funding vital research into PTSD and veteran mental health, from easing the transition to civilian life to providing opportunities for members of Queensland's Defence family to connect with each other. Our day-to-day activities are guided by the eight Objects outlined in our Constitution.

Our response to the *Productivity Commission, A Better Way to Support Veterans, Draft Report* (draft report) is primarily carried out in alignment with Objects One and Six. Object One requires that RSL Queensland 'provide for the sick, helpless, wounded, aged, vulnerable, destitute and needy among those who are serving or who have served in the Australian Defence Forces and their dependants'. Object Six requires that RSL Queensland 'protect the good name and preserve the interests and standing of members of the Australian Defence Force'.

RSL Queensland's observations in this report, when read in conjunction with our initial submission to the Productivity Commission, align with Objects One and Six by recommending pathways to support the effective rehabilitation and lifelong dignity of current and former service people and their families, as well as ensuring that current and future members of the Australian Defence Force (ADF) serve in a well-resourced, trained and fit organisation which maximises their success on the battlefield and minimises battlefield casualties.

RSL Queensland supports many of the findings by the Productivity Commission relating to the complexity of the current processes. However, underpinning the proposal put forward by the Productivity Commission is the proposition that new Governance arrangements be adopted. This issue is addressed below and all subsequent responses will be on the basis that DVA remains the service provider for transitioning and discharged members of the ADF. Some of the proposals, although not costed, appear to significantly reduce access to benefits and processes which are currently available to DVA's client base. As an ESO which has campaigned strongly for veterans' rights and for their access to benefits through DVA, we will not support any proposals which lessen the value and availability of



benefits available under the existing structure, unless there is clear benefit gained from simplifying processes and making the benefits more easily understood and accessible.

### **New governance arrangements**

There is much within the draft report that – if implemented – would enhance the support to veterans. However, RSL Queensland strongly rejects the new governance arrangements, most particularly the establishment of a single Ministry for Defence Personnel and Veterans and ‘bring(ing) the long-term wellbeing of serving and ex-serving members into consideration of broader defence policy’.<sup>1</sup>

RSL Queensland believes that, in developing the draft report, the Productivity Commission has failed to conceptually separate the mission of the ADF with that of DVA, approaching the review from the perspective that the ADF operates in a similar manner to other large organisations within Australia. The mission of Defence is to defend Australia and its national interests<sup>2</sup>, while the mission of DVA is to support those who serve or have served in the defence of our nation<sup>3</sup>. Combining two departments with such fundamentally different goals may result in a short-term fillip to the current account, but in the medium and long term will neither enhance the defence of Australia and its national interests, reduce risk nor better support veterans.

As an example, RSL Queensland notes with concern the observation in the draft report that ‘a change to who pays for veterans’ compensation and rehabilitation (by levying a premium on Defence for uniformed ADF personnel) would provide an additional incentive. A premium is, in effect, a price signal about the real costs (lifetime not short-term costs) of service-related harm’.<sup>4</sup>

Price signals will drive a perverse, short-term approach to preparing personnel to defend Australia and its national interests. Personnel in the Army, and those in the RAAF and RAN who are required to engage in close combat, are in effect tactical athletes. Continuing with the sporting analogy, although a professional sports team will aim to train in a manner that increases the likelihood that the majority of team members will be available for competition, that goal is secondary to ensuring that those who do take to the field are stronger, faster and have greater endurance than their opponents. This is even more important for close-combatants, where physical superiority may literally be the decider between life and death.

We note in the draft report that the Commission appears to infer that a reduced injury rate associated with reducing marching speeds or running distances is implicitly a good thing<sup>5</sup>. RSL Queensland

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<sup>1</sup> *Productivity Commission, A Better Way to Support Veterans, Draft Report, page 27*

<sup>2</sup> Department of Defence, <http://www.defence.gov.au/AboutUs.asp>, viewed 4 January 2019

<sup>3</sup> Department of Veterans’ Affairs, <https://www.dva.gov.au/about-dva/freedom-information/information-publication-scheme/what-we-do>, viewed 4 January 2019.

<sup>4</sup> *Productivity Commission, A Better Way to Support Veterans, Draft Report, page 29*

<sup>5</sup> *Productivity Commission, A Better Way to Support Veterans, Draft Report, page 201*



categorically refutes this assumption, based on the lived experience of our members. Although physical training should be graduated and conducted using world-leading sports science principles to reduce injury and increase performance, the physical performance characteristics required of close combatants must be based on their efficacy and survivability in combat, and not a simple reduction in compensation payments. To do so risks the lives of Australians.

Separately, and although not germane to the overall thrust of the Commission's report, RSL Queensland notes the fallacy of the comment within the draft report that 'although the member is technically compelled to go on a deployment if ordered to do so, in practice deployments are highly sought after and there is often an element of choice involved'.<sup>6</sup> This observation may hold for isolated instances where the number of personnel required for deployment is comparatively low, but is not reflective of the Australian experience of war since Federation, including of conscription, mobilisation of Citizen Military Forces (CMF) and Reserve units, and the enforcement of the provisions of the Defence Act 1903 and Defence Force Discipline Act 1982.

### **The role of ESOs**

It is unfortunate that the findings of the Veterans' Advocacy and Support Services Scoping Study have not been publicly released at a time when the Productivity Commission draft report is being considered. RSL Queensland notes that the Productivity Commission has made limited comment regarding the role of ESOs, pending the release of the findings of the scoping study. As already noted, the initial title of this review being conducted by the Productivity Commission was 'A Better Way to Support Veterans'. RSL Queensland acknowledges the lack of a unified voice by all ESOs but still firmly believes that ESOs are key players in the ongoing task of finding better ways to support veterans. Their role in the provision of camaraderie, guidance, assistance and benefits to veterans should not be understated or overlooked. At a Senate Estimates hearing on 20 February 2019, the DVA Secretary gave a brief preview of the findings of the Scoping Study and it was certainly not favourable in relation to the advocacy roles of ESOs. In 2018 RSL Queensland assisted with lodging more than 4,500 claims with the DVA. RSL Queensland has not been able to obtain national statistics on claims lodged with DVA with the support of ESO advocates, but RSL Queensland figures alone provide clear evidence that veterans are seeking assistance with their claims. Any action to withdraw that assistance is most certainly not 'A Better Way to Support Veterans'! RSL Queensland requests that there is opportunity to comment when the Advocacy Scoping Study findings are released, if those findings have a potential impact on the approach taken by the Productivity Commission when it makes its final report to Government.

### **The unique nature of military service**

As noted by the RAAF Association in their submission, 'Military service is often equated to police, fire, ambulance and other emergency services, and although personnel in these professions are also prone to traumatic experiences and face similar and unique challenges, they face very different obligations to ADF members. There is no other employment category in this country that requires an employee to lay

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<sup>6</sup> Ibid, page 96



down their life, be classified as a 'harm person', or to surrender many of the freedoms the Australian community enjoy.

'The number of personnel killed on duty is an indicative comparator of the nature of service, with 788 police officers killed on duty in Australia since the 1800s and 102,686 ADF personnel killed on operations during approximately the same period.'

RSL Queensland agrees with observations that 'the fatality and serious injury frequency rate, and the nature of serious injuries associated with enemy action including gunshot wounds, gas, blast and other traumas is different than that normally experienced by civilian and emergency services personnel in Australia. Moreover, the nature of physical training required of ADF personnel in order to maximise their combat effectiveness and reduce their likelihood of fatality on operations, necessitates robust and ongoing physical training which is substantively different than civilian and emergency services personnel. There is undoubtedly much that can be learnt from the success or otherwise of rehabilitation under a range of schemes, however the above factors preclude utilising civilian schemes as the benchmark for the efficacy of veteran or in-service personnel rehabilitation programs.'

RSL Queensland fully supports the observations of the RAAF Association and strongly believes that the rehabilitation role should not be dealt with in a similar way to civilian programs. The unique nature of military service needs to be understood and supported.

### **Why reform is needed**

RSL Queensland agrees with the observation made by the Commission that 'The current veterans' compensation and rehabilitation system is not performing well. Veterans and their families could be getting better outcomes from the resources the Australian community is spending to improve their lives.' However, it does not support the recommendation that a totally new Governance system is required to achieve improvements in the outcomes. Major proposals for changed structure and governance put forward by the Commission have apparently not been fully scoped or costed and RSL Queensland holds the view that the complexity and cost of the proposed changes would be prohibitive. RSL Queensland's preferred approach would be for a full review of the governance within DVA to be conducted, and performance achievements sought under a new DVA structure. As noted by the Commission, any new structure needs to be able to 'facilitate a focus on achieving outcomes for veterans (including achieving veterans' potential and reducing dependence), and uncovering cost-effective rehabilitation, transition support and health care'.

This does not mean that the Department needs to adopt 'contemporary workers' compensation and social insurance schemes'.

### **Observation regarding Veteran Centric Reform (VCR)**





Comments have been made by the Productivity Commission regarding the Veteran Centric Reform (VCR) program currently being implemented within DVA. Additionally, several draft findings have been made in relation to VCR.

Although VCR began in 2016, the full benefit of this reform has not yet been fully established. Time needs to be taken to ascertain the benefits of these reforms. It is noted that the Commission also states that the improvements need time to be fully introduced and has suggested that the progress be reviewed upon scheduled completion of the project in 2021.

As it now stands, VCR has created some meaningful benefits. Possibly the major benefit of VCR is the funding made available to achieve ongoing improvements of DVA's IT systems and the migration from *myAccount* to *myService*, accessible through *myGov*. Access to online claiming is continuing to improve. Many of the observations made by the Productivity Commission related to DVA's failure to be able to provide meaningful data in relation to their activities. The improvement of existing systems may go towards achieving better outcomes in this regard.

To achieve the VCR improvements and then start again under the proposed new governance environment would undoubtedly be a costly and time-consuming exercise. The data recording of Defence activities in relation to workplace health and safety and rehabilitation has also come under some criticism by the Productivity Commission. RSL Queensland's position is that the existing work being done under VCR funding should be better focussed, but continued and supported with the findings of the Productivity Commission in the fore as further improvements are considered.

The recommendation to totally restructure the DVA across various government departments through the creation of commissions etc will totally negate any advances achieved under VCR. Additionally, the veteran community, which has broadly developed an understanding of the pathways to deal with DVA, will have to come to grips with understanding and dealing with another structure. This will create further confusion than currently exists within the veteran community and will also create confusion within the wider community, including those providers who currently deal with the DVA.

## Dealing with the Commission's findings and information requests

### Draft Recommendation 4.1                      Supported

*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 ADF*
- *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.*

RSL Queensland fully supports this recommendation with the added proviso that there should be no detriment to existing entitlements for veterans.

### **Information Request 5.1**

*The Commission was told 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?*

RSL Queensland's knowledge of the process suggests that of the use of Sentinel within the ADF in recent years is stronger. However, there is some evidence that central use varies between the services. It is noted that the Commission has been given advice that the data recorded in Sentinel significantly understates the true incidence of most work health and safety incidents. If correct, this needs to be addressed by Defence and all three Services would need to ensure a diligent and consistent approach to record keeping.

Amalgamation of this data source with DVA records would provide better continuity of care. However, this would raise privacy issues that would need to be addressed before such a proposal could be implemented. Under the Productivity Commission's proposal regarding governance these issues would be minimised; however RSL Queensland supports Defence working with DVA to address issues of



privacy and system compatibility. Any future governance arrangement should facilitate the transfer of any data which relates to the wellbeing of serving and former serving members.

RSL Queensland notes that the ADF is committed to providing a safe and healthy working environment for its members. Regardless of the outcome of this inquiry in relation to any governance change, Defence needs to continue to improve its recording and reporting tools to ensure an ongoing understanding of improvements in workplace safety.

**Draft Recommendation 5.1**                      **Supported**

*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.*

This is dealt with in the previous response.

**Draft Recommendation 5.2**                      **Supported**

*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.*

RSL Queensland does not have access to all the information regarding these trials but supports in principal any trials seeking to reduce the incidence of injuries within the ADF.

**Draft Recommendation 5.3**                      **Noted**

*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).*

RSL Queensland has received insufficient information with regard to this recommendation to develop a recommendation.



### **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.*

RSL Queensland is of the view that the responsibility for transitioned veterans (and medically transitioning members (see response to Information Request 6.1) should remain with DVA.

### **Information Request 6.1**

*The commission is seeking information (both quantitative and qualitative) on return-to-work outcomes from Australian Defence Force and Department for Veteran's 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*

As noted by the RAAF Association in their submission<sup>7</sup>, 'Military service is often equated to police, fire, ambulance and other emergency services, and although personnel in these professions are also prone to traumatic experiences and face similar and unique challenges, they face very different obligations to ADF members. There is no other employment category in this country that requires an employee to lay down their life, be classified as a 'harm person', or to surrender many of the freedoms the Australian community enjoy.'

The number of personnel killed on duty is an inexact but indicative comparator of the nature of service, with 788 police officers killed on duty in Australia since the 1800s<sup>8</sup> and 102,686 ADF personnel killed on operations during approximately the same period<sup>9</sup>. On that basis, RSL Queensland holds significant concern about the underlying principle and associated impact of comparing military and civilian rehabilitation and compensation programs.

Our assessment is that the fatality and serious injury frequency rate, and the nature of serious injuries associated with enemy action including gunshot wounds, gas, blast and other traumas is different than that normally experienced by civilian and emergency services personnel in Australia. Moreover, the nature of physical training required of ADF personnel in order to maximise their combat effectiveness

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<sup>7</sup> Productivity Commission, *A Better Way to Support Veterans, Draft Report*, page 81

<sup>8</sup> National Police Memorial, <http://npm.org.au/honour-roll/>, viewed 4 January 2019

<sup>9</sup> Australian War Memorial, [https://www.awm.gov.au/articles/encyclopedia/war\\_casualties](https://www.awm.gov.au/articles/encyclopedia/war_casualties), viewed 4 January 2019.



and reduce their likelihood of fatality on operations, necessitates robust and ongoing physical training which is substantively different than civilian and emergency services personnel. There is undoubtedly much that can be learnt from the success or otherwise of rehabilitation under a range of schemes, but the factors described above preclude using civilian schemes as the benchmark for the efficacy of veteran or in-service personnel rehabilitation programs.

RSL Queensland is not in a position to provide quantitative and qualitative data on return to work programs run by either the Australian Defence Force Rehabilitation Program (ADFRP) or the DVA Client Access and Rehabilitation Branch. RSL Queensland notes the criticism by the Commission regarding the lack of data in this regard and is also aware of similar findings by the ANAO and other reviews of DVA. Despite the funding injected into the VCR program to improve the DVA systems, it would appear that very limited progress has been made in relation to reporting on rehabilitation outcomes. Improvements will be difficult to achieve when the current issues do not appear to be able to be quantified, analysed or fully understood.

#### **Information Request 6.1 continued**

*The bottom line is that there needs to be a fundamental change to the way rehabilitation services are commissioned, including more proactive engagement with providers. The Commission welcomes comments on the best approaches to improved commissioning of rehabilitation services*

RSL Queensland agrees with observations made by the Commission regarding the need for change in the way that rehabilitation services are commissioned and provided. This is most particularly relevant at the time a Defence Member is transitioning on medical grounds.

As identified by the Commission, despite some effort being made by both Defence and DVA, there is still a way to go in assisting medically transitioning members effectively move into civilian life. It has also been noted that there appears to be no reliable business systems within Defence or DVA to support this process or to track the effectiveness of procedures and outcomes.

In relation to 'younger' veterans, a substantial client base of the Department of Veterans Affairs (DVA) are those being medically separated from Defence through the ADFRP. Discussions with clients of the RSL (and therefore clients of DVA) suggests they are subject to a confusing and overlapping array of compensation and rehabilitation services that are not easily explained to those clients (or understood by ESOs). DVA and Defence are seemingly struggling to identify a best practice approach to rehabilitation during medical transition. RSL Queensland urges both DVA and Defence to agree on a rehabilitation process during medical transition which identifies Goal 3 clients at an early stage and promptly refers them through to DVA rehabilitation providers in a seamless rehabilitation transition.

Our enquiries have established that DVA services around rehabilitation are delivered piecemeal by separate areas of the department. The structure is not clear to the external observer but does appear to involve the following areas – Client Channels, Client Co-ordination and Support, and Client Access and Rehabilitation. All of these come under the Client Benefits Division but appear to work relatively independently of each other even though they may be dealing with the same client. Added to this is the



requirement to establish liability for claimed conditions through the Primary Claims area of Client Benefits Division and explore entitlement to incapacity payments through the Incapacity and Permanent Impairment area within the Client Benefits Division. These essential aspects of establishing initial entitlement to rehabilitation are not only managed through different sections under different management structures, but also in different States. The links between the various areas appears to rely on IT systems that are ill equipped to provide a holistic approach to maximising favourable outcomes for veterans. These systems do not link with Defence systems and the transfer of relevant data between the two Departments is minimal.

RSL Queensland's observations – accrued over many cases – is that ADFRP, the On-base Advisory Service (OBAS), Case Coordination, Commonwealth Superannuation Commission and DVA Rehabilitation Coordinators come together in a series of disorderly communications, with the best interests of the client subservient to a process that is managed across different departments with no clear communication channels and which cut across different sections and management lines within DVA – also with no clear communication channels.

The process requires the client to defend their injuries and to confirm their impairment. This changed status, from member to benefit seeker, is corrosive to their confidence about the future. The lack of a clear process is foreign and confusing to transitioning members – most particularly those who are transitioning on mental health grounds. From our extensive experience, we believe this process is intensely confusing and destructive. Providing advice to members who seek support is fraught with concern because of the lack of clear insight into how the process really works.

In summary, the existing transition process through to superannuation, compensation and rehabilitation is poorly coordinated and even more poorly enunciated. This situation can be detrimental to the mental health of the client, and delays in linking transitioning members to appropriate rehabilitation services can have a negative effect over the lifetime of the member.

Discussions with different DVA Rehabilitation Coordinators can lead to quite different views on the way forward for transitioning veterans. The differences are particularly apparent across the States. DVA Policy Guidelines do not appear to be specific enough to ensure a consistent approach and level of service across the county.

There needs to be:

- improved communication channels with all arms of the ADF via ADFRP
- improved communication channels with the Commonwealth Superannuation Corporation (CSC)
- cohesion within the DVA teams tasked with providing services
- a clearly articulated and consistent approach across all areas of DVA with the responsibility of providing rehabilitation services.



RSL Queensland believes rehabilitation services and on-going case management for medically transitioning members should be brought together within DVA before the actual transition so there is an holistic corporate memory and approach to the overall task.

One of the major issues that prevent an effective handover to DVA Rehabilitation services is the existing MRCA legislation.

*MILITARY REHABILITATION AND COMPENSATION ACT 2004 – SECT 39*

***Definition of rehabilitation authority***

*(1) The Chief of the Defence Force is a rehabilitation authority for the purposes of this Chapter.*

*(2) The Commission is a rehabilitation authority for the purposes of this Chapter.*

*(3) The rehabilitation authority for a person at a time is:*

*(a) subject to paragraph (aa), the Chief of the Defence Force for a time when the person:*

*(i) is a Permanent Forces member, a continuous full-time Reservist or a or a part-time Reservist; and*

*(ii) has not been identified by or on behalf of the Chief of the Defence Force as being likely to be discharged from the Defence Force for medical reasons; or*

*(aa) if the Commission, after considering advice from the Chief of the Defence Force, determines, in writing, that the Commission is to be the rehabilitation authority for a specified person at a specified time--the Commission for that time; or*

*(b) the Commission for any other time.*

Although Defence has made significant steps forward in managing medical transitions, information provided to RSL Queensland indicates the process remains inconsistent in the way it is handled across different locations and arms of the service. Within DVA, information regarding medical transitions may be provided to the Client Channels Division but is not routinely shared with the Client Benefits Division – where claims are received and processed. RSL Queensland suggests that DVA should be routinely advised at an early stage of the details of **all** members who are identified for medical transition.

Currently, it seems that the DVA may be advised of an intending medical separation at any time from when a claim for liability is received from a serving member until sometime after the separation has occurred.

RSL Queensland proposes that once a date for medical transition is established, DVA should be formally and routinely advised 30 days prior to that date. At that date s39(3)(ii) should come into force and the Military Rehabilitation and Compensation Commission can become the rehabilitation authority.



This proposal will not involve a change in legislation – merely a workable procedural option which will allow a seamless transfer of responsibility to DVA and the ability to provide an ongoing and complete rehabilitation service through and post the transition date. This will enable the transitioning member to work closely with the DVA Rehabilitation provider and map a clear wellness path for the future starting one month prior to their actual transition date. A member would reach the transition date confident in the knowledge that there is a pathway forward.

A DVA Case Manager needs to be assigned. This officer should be widely skilled and have the training to act as Needs Assessment Delegate, Case Coordinator, Rehabilitation Coordinator and liaison point with CSC. Once contact has been established this DVA Case Manager will be a single point of contact through the whole transition phase. This DVA Case manager will work with the ADFRP Case Manager for the common purpose of smooth transition. Depending on the client's needs, the scale of service will be adjusted accordingly. A process can be established with ADFRP and a liability claim, which should be fast tracked in order to minimise HIA in Goal 3 awaiting the processing of claims. The handover should take place and DVA rehabilitation commence even if liability for transitioning conditions has not been accepted. Complex cases will need to be handled accordingly, but the approach should be streamlined via direct expert case management through the total process. Maximum use should be made of external rehabilitation providers who will have been engaged with the client, in parallel with the ADFRP, from the identified date 30 days prior to separation. These rehabilitation providers will be tasked with establishing very comprehensive rehabilitation plans that offer the full range of available services.

This proposal is in line with the Jesse Bird inquiry: 'Of the 19 recommendations, the inquiry team identified the following seven recommendations for DVA to continue as part of its Veteran Centric Reform (VCR) program: 10. Continue to pilot an integrated and holistic case management approach, including a whole-of-person view, a holistic care model for veterans, and an increased focus on transition support and vocational assistance.'

**Information Request 6.1 continued                      Supported in part**

*The Commission is seeking further views on the role that the proposed Joint Transition Command should play in the coordination of rehabilitation services to ensure continuity of service to transitioning veterans and the accessing of new services for veterans who have not previously been assigned a rehabilitation provider.*

RSL Queensland has put forward a proposal regarding medically transitioning members. Joint Transition Command could have a strong role in coordinating that process. It should also coordinate the rehabilitation services that are provided to Reservists through ADFRP. [s.39(3)(i) of MRCA]

**Information Request 6.1 continued                      Supported**

*Option for DVA to continue any rehabilitation program for service related injuries set up by Defence. DVA could then reassess the need for rehabilitation once the program has run its course. The Commission is seeking further views on the feasibility of this approach.*





Also dealt with in Information Request 6.1. DVA should take responsibility for any rehabilitation program for medically transitioning members prior to transition. There should be an active handover by ADFRP.

**Information Request 6.1 continued**                      **Supported**

*The bottom line is that there needs to be a fundamental change to the way rehabilitation services are commissioned, including more proactive engagement with providers. The Commission welcomes comments on the best approaches to improved commissioning of rehabilitation services.*

Also dealt with in the response to Information Request 6.1. DVA needs to ensure that it only works with providers who can provide a full range of services – including expert vocational rehabilitation support where required.

**Information Request 6.2**                      **Supported**

*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.*

A trial of best practice models, as proposed by the Commission, could provide very useful guidance to the effectiveness of a consumer-directed model.

**Draft Recommendation 7.1**                      **Partially supported**

*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.*

This proposal could assist in driving a consistent approach to transition across all Services if it can be implemented in a manner that does not increase the bureaucracy or administrative burden and associated confusion for the transitioning member..



### 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.*

Joint Transition Command should continue to monitor the wellbeing and progress of all transitioning members for a suggested period of two years following transition, to complement and support any services provided by DVA and CSC. It could also support members who have transitioned from a permanent to a part-time role, , who may have new or ongoing concerns regarding their entitlements.

### 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?*

Access to tertiary and further education exists through the current DVA Rehabilitation Section; however, provision of these entitlements to eligible veterans appears to be poorly understood and is far from consistent.

RSL Queensland suggests that all veterans who open a rehabilitation case should be encouraged to consider the possibility of further education to enhance their career prospects.

Once approved, the veteran should have access to full coverage for their education costs plus ongoing payment of incapacity benefits while they are studying and not employed. A veteran on a rehabilitation plan would also have access to job seeking assistance and work trials, and their employers could qualify for subsidies in the first 12 months of employment.

The legislation and framework to do this already exists. The limiting factor is DVA's reluctance to adopt a consistent model which supports further education.

**RSL Queensland supports the clear application of existing legislation to support further education for veterans who are prevented from undertaking their existing employment due to service-related illness or injury. It does not seem that a further scheme need be designed or implemented, and RSL Queensland suggests that a trial be conducted to establish the success of the initiative.**

RSL Queensland looks with interest to the schemes in place within the United States of America to holistically support the veteran community in effective transition and recommend to the Commission a study into the efficacy of those schemes.



## **Trialling a veteran education allowance. Supported – see above**

### **Information Request 7.3**

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

These members should come under the proposed Joint Transition Command and their needs should be individually ascertained prior to their transition.

### **Draft Recommendation 8.1                      Dot points 1 & 2 supported. Dot point 3 contingent support**

*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.*

RSL Queensland strongly supports the harmonisation of DRCA and MRCA. This should include the use of GARP M to calculate Permanent Impairment, rather than the current Permanent Impairment Guide which is applied for DRCA assessments.

RSL Queensland does not support adopting a single standard of proof across all claims. The more beneficial standard for veterans who have had Operational Service is deeply embedded into the process of determining claims. The Repatriation Medical Authority (RMA) has committed approximately 30 years into developing the Statement of Principle (SoP) regime which is successfully applied to ensure consistency in decision making. RSL Queensland would oppose any move to 'wind back' existing processes and introduce a less beneficial scheme.

### **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?*

See the response to Draft Recommendation 8.1.



### **Draft Recommendation 8.2**                      **Supported**

*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.*

RSL Queensland supports this recommendation.

### **Draft Recommendation 9.2**                      **Supported**

*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.*

RSL Queensland supports this recommendation.

### **Draft Finding 9.2**                      **Agreed**

*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**                      **Agreed**

*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.*

RSL Queensland agrees with the finding that deeming not be supported. RSL Queensland does not support statutory time limits unless there are very clear changes in the way evidence to support claims is gathered.



**Box 9.8 DVA claims assessment staff: sufficient guidance? Agreed in part**

RSL Queensland agrees with the observations made by the Commission.

DVA needs to:

- provide adequate numbers of permanent staff to reasonably undertake their service delivery roles. The reliance on short-term, poorly trained contract staff is very difficult to understand. Government needs to commit to the provision of skilled services to veterans.
- develop clear and consistent Policy and Procedural Guidelines for all aspects of service delivery to clients.
- provide regular training which familiarises all relevant staff with the guidelines and also provide them with support in the use of the IT systems which are available to them.
- ensure all staff are advised of policy and structural changes within DVA which may affect their service delivery.
- make available all changes to Policy and Procedure which can affect the claims process to advocates and legal practitioners.

**Draft Recommendation 9.3 Supported**

*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.*

As described above, DVA needs to be able to commit to the staffing of a rigorous Quality Assurance process. All veterans need to have confidence that their claims have been determined correctly by well-trained DVA staff. This becomes increasingly important with the increasing reliance on online claiming and the decline in the numbers of trained ESO advocates.

**Draft Finding 9.4 Agreed in part**

*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.*

Well-trained external medical advisers can provide independence, however that independence must be vigorously assured if veterans are to be confident of the assessment.

**Draft Finding 9.5 Agreed**

*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.*

This finding is strongly supported. Funding for the VCR program must be sufficient to enable rigorous supervision and review. Outcomes for VCR should include systems that clearly report on client outcomes. Reviews of DVA's performance (including that of the Productivity Commission) have routinely identified that DVA systems are not capable of producing reports identifying achievements and outcomes. Remedying this must be a priority – most particularly in relation to rehabilitation.

### **Draft Finding 9.6 Ex-service organisations do play an important role – strongly supported**

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

ESOs **do** play an important role; they have done so for more than 100 years and will continue to do so.

ESOs throughout the country continue to provide camaraderie, assistance and support to current and former serving members and their families. The diversity of their interests enables ESOs to provide a very wide range of services. There is no doubt that the lack of coordination between ESOs reduces their joint ability to lobby for veterans' rights and services. It is of concern that the lack of coordination may limit the effectiveness of responses to this very important review by the Productivity Commission.

However, ESOs still provide a significant level of services in relation to DVA claims and welfare support. In 2018, RSL Queensland assisted in lodging more than 4,500 DVA claims. This does not include claims lodged through our network of Queensland Sub Branches by trained advocates. Veterans still require assistance to lodge claims due to what has been identified in this study as a very complex and confusing process. For the DVA Secretary to state at Senate Estimates on 20 February 2019 that the services of advocates would not be required in the future demonstrates a lack of understanding of how complex the claim process is. As identified by the Productivity Commission, it will be many years before meaningful reform is achieved in DVA; in the interim, there are many veterans who, due to their medical conditions, are ill-equipped to deal with the complexities of the processes and legislation.

The importance of volunteers in assisting others must not be disregarded. Over many years, the selfless services of many ex-service volunteers has not only assisted those veterans who need help but also provided the volunteers themselves with a meaningful and fulfilling purpose in life. The importance of volunteering for veterans who are not in a position to undertake remunerative work should be recognised and supported.

The current process for training advocates is fraught with problems and has resulted in many volunteer advocates deciding to stop doing the valuable work they do. This is a loss to their communities and certainly a loss to our veterans and their families.

In summary:

- To be an effective lobby group the ESOs need to work through their differences.
- ESOs need to improve their own internal communication.
- DVA needs advocates to assist with claims. They should acknowledge this and provide the resources to effectively train and support these volunteers.
- DVA should keep those ESOs who have trained advocates fully informed regarding procedural and policy changes. Currently all ESOs effectively 'work in the dark' in relation to DVA changes.



**Draft Finding 10.1**                      **Agreed**

*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.*

It must be noted here that the majority of appellants attend external review processes with the assistance of advocates or legal practitioners. Without this expert assistance, the review outcomes would not be so positive and appellants would not be receiving the benefits they are entitled to receive.

**Draft Finding 10.2**                      **Agreed**

*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.*

DVA and the Veterans' Review Board (VRB) rely on totally separate claims/appeals management systems. The ability to provide meaningful feedback regarding outcomes on specific cases is virtually non-existent. Similarly, there are no feedback mechanisms regarding the outcomes of appeals to the Administrative Appeals Tribunal (AAT) or higher Courts. This means that the very valuable learnings from appeal bodies are simply going to waste. Primary decision making will struggle to improve without this feedback.

**Draft Recommendation 10.1**                      **Strongly supported**

*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.*



DVA and VRB systems should be 'harmonised' so that there are links back to the original decisions. We have provided further comment on this matter under Draft Findings 10.2.

### **Draft Recommendation 10.2**                      **Supported**

*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 Finding 10.3**                      **Agreed**

*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.*

This perfectly illustrates why veterans need well-trained advocates to support them.

### **Draft Recommendation 10.3**                      **Partially Supported**

*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.*

### **Observation**                      **Agreed**

*This single pathway should start with internal reconsideration and outreach by the agency responsible for the veteran support system.*

*The Commission favours the use of a 'reconsideration' process, not a 'review' process, at this step. 'Reconsideration' involves a claims assessor reconsidering the entire claim afresh, including conducting a new investigation and seeking out additional evidence from the claimant or other sources. DVA internal*





*reviews, by comparison, focus on only the evidence used to reach the original decision, checking for any egregious errors*

DVA introduced a process under the provisions of s31 of the Veterans' Entitlement Act in the 1990s that worked in the manner described above. Unfortunately, it was an unfortunate victim of cost cutting. Any proposal to reinstate such a process should clearly identify funding arrangements to ensure its ongoing existence.

**Draft Finding 10.4                      Agreed**

*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.*

**Observation regarding Advocates                      Noted**

*In the veterans' space, applicants are generally not required to self-represent, as 80 per cent of applicants at the VRB are represented by an advocate, typically from an ex-service organisation (ESO) (VRB 2018a, p. 37). However, there remains concerns around the extent to which volunteer advocacy services are meeting the substantial task of providing effective assistance to veterans during the claim and review processes. However, the Australian Government has already commissioned a scoping study (by Robert Cornall) on this issue. As a result the Commission has not made any findings or recommendations regarding ESO advocacy services at this stage (section 9.6).*

More needs to be done to improve the effectiveness of advocacy services. The fact that so many veterans seek the support of an advocate is a strong message that these services are needed. RSL Queensland would like the opportunity to comment further on this observation following the release of the Advocacy Scoping Study.

**Observation regarding Legal Representation                      Noted**

*As a result, the Commission does not see clear benefits that would come from allowing formal legal representation in the VRB. This would also be the Commission's view under the proposed modification to the VRB's role. A final position will be determined after reviewing the upcoming Cornall study of the role of advocates.*

RSL Queensland requests the opportunity to comment further once the Advocacy Scoping Study is released.

**Draft Recommendation 10.4                      Not supported**

*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.*

The Productivity Commission is suggesting the adoption of an overall pathway that severely restricts the ability of a veteran to have the merits of their claims reviewed in a non-adversarial forum. RSL Queensland does not support this recommendation.

**Information Request 10.1                      See below**

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

There should be a review process for compensation offsetting when it involves DRCA payments being offset against a DVA pension, .

**Information Request 11.1                      Not Supported**

*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.*

RSL Queensland does not support this model.

**Draft Recommendation 11.1                      Not supported**

*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.*

For reasons stated previously, RSL Queensland does not support the transfer of responsibilities to Defence. RSL Queensland strongly supports any improvement within DVA of its internal governance, policy management and strategic planning.

**Draft Recommendation 11.2                      Not Supported**

*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.*

### **Draft Recommendation 11.3                      Supported**

*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.*

### **Draft Recommendation 11.4                      Not supported**

*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                      Strongly not supported**

*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.*

*See RSL Queensland's opening statements.*



**Observation                      See below**

*There is a funeral allowance to assist with the funeral costs of veterans (provided under all three Acts) where they died as a result of service. And as with other dependant benefits, it can also be paid out under the VEA and MRCA in other circumstances, such as if the veteran was receiving the SRDP, or died in needy circumstances. A maximum of \$2000 is available under the VEA, while just over \$12 000 is available under the MRCA and DRCA.*

Bereavement entitlements should be harmonised and at a level that reflects current day funeral costs.

**Draft Recommendation 12.1                      Supported in part**

*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.*

RSL Queensland supports the harmonisation of DRCA and MRCA processes and benefits. The recommendation to align MRCA and DRCA Permanent Impairment, although supported, would have its own legislative challenges and any changes should be worked through with both legal and ESO input.

RSL Queensland notes the Productivity Commission's recommendations to limit entitlement to the Gold Card. It is RSL Queensland's strong view that these recommendations have been made by the Commission without it fully understanding the eligibility requirements or benefits. Any proposal to change existing entitlements to harmonise DRCA with MRCA entitlements should only be considered after a full review of the impact and a costing of any alternate proposals. This should include a full costing of the impact on providing Gold Cards to veterans or dependants who meet criteria mirroring that currently available to MRCA clients.

**Draft Finding 12.1                      Supported**

*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                      Supported with the exception of the final dot point**

*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 Transition of the proposed Veteran Services Commission (draft recommendation 11.2), consideration should be given to whether it should administer the CSC invalidity pensions.*

Although RSL Queensland agrees that closer sharing of information between DVA and CSC will benefit veterans in processing any claims for invalidity benefits under CSC, we cannot see how DVA should be given carriage of processing CSC Invalidity Benefits. The business of CSC is superannuation insurance, while the business of DVA is the provision of Military Rehabilitation and Compensation. While the two do share medical similarities, they are exclusively different in their assessment and legislative oversight.

#### **Information Request 12.1                      Not supported**

*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?*

This appears to be an attempt to limit the benefits available to veterans.

#### **Draft Recommendation 13.1 Supported**

*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.*

RSL Queensland supports the introduction of one rate of permanent impairment to cover peacetime, non-warlike and warlike service, provided the rate that is set is appropriate.

#### **Information Request 13.1                      See above**

*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.*

Further investigation is required to understand the cost of living and the mechanisms which should be incorporated into the rate to ensure that it does not deteriorate over time, as occurred with the DFRDB pension scheme. The current warlike rate should form the basis for consideration.



**Draft Finding 13.1**                      **Noted**

*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.*

Whilst conceptually correct, this needs to be balanced with ensuring the veteran is rapidly and appropriately supported whilst they are unable to work.

**Draft Finding 13.2**                      **Not supported**

*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.*

Whilst 'the payment is unique to the veteran compensation system', the nature of military service is unique. This payment reflects part of a broader implicit contract between Australia and its service personnel, that if those personnel are wounded, injured or killed in service to the nation, that their families will receive the care and benevolence of the nation.

**Draft Recommendation 13.2 Supported in part**

*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.*

RSL Queensland agrees that there needs to be a review of the way payments are assessed and made. The Commission has proposed that interim payments be made as periodic payments only, and RSL Queensland supports this proposal. We note that the Commission did not support RSL Queensland's proposal to pay interim payments at the assessed rate and conduct scheduled reviews until the condition/s stabilise. The Commission considers this will be a disincentive to rehabilitation, but RSL Queensland believes it supports the dignity of the veteran will be no more of a disincentive than a veteran who may not access optimal treatment until a permanent and stable assessment is made.

**Draft Recommendation 13.3**                      **Supported**

*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.*

**DRAFT Recommendation 13.4**                      **Not Supported**

*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.*



RSL Queensland does not support the removal of existing benefits. See response to draft finding 13.2

**Draft Recommendation 13.5**                      **See comment**

*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.*

RSL Queensland believes the use of lifestyle ratings should be discontinued, except for Extreme Disablement Adjustment (EDA) assessments, or the ratings mechanism should be completely reviewed. Current lifestyle ratings are no longer relevant to younger veterans. Any Permanent Incapacity or Disability Pension assessment should automatically revert to the highest rating in the shaded areas. Lifestyle ratings which provide three options are needless administrative burdens.

Existing recipients of permanent impairment compensation or disability pension should not have their compensation reassessed.

**Draft Recommendation 13.6**                      **Not Supported**

*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.*

The option of electing payment of the Special Rate Disability Pension (SRDP) under MRCA was initially created as a Safety Net for those veterans who are incapacitated for work, but do not have access to Invalidity Benefits under the CSC. This would be relevant to a Reservist who was severely injured during training or on deployment, as they have no interest, or only a minimal interest, in CSC.

For those without access to CSC benefits, the SRDP payment should remain an option for those who become incapacitated for further employment. The option of electing SRDP or Incapacity Payments should remain intact.

DVA should review the existing procedures for payment of SRDP and ensure that these criteria and procedures are clearly communicated to their staff, ESO advocates and veterans.



**Draft Finding 13.3**                      **Not supported**

*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.*

RSL Queensland is aware that the TPI Federation of Australia is making strong representations on this issue and support their approach.

**Draft Recommendation 13.7**                      **Not supported**

*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.*

Under the VEA the widowed spouse of a veteran who has been assessed for payment of the Special Rate (TPI) or EDA is entitled to be paid a War Widows pension and be provided with a treatment card for all conditions (Gold Card), without having to prove the veteran's death was service-related. This is in recognition of the high impairment suffered by the veteran as a result of their service.

Under the MRCA a similar provision was created. The death of a veteran assessed as eligible for the Special Rate Disability Pension (SRDP) or assessed at maximum impairment points would give the surviving spouse eligibility for the Wholly Dependent Partners Payment and receipt of a Gold Card. This created a level entitlement for spouses across the two Acts.

The report title is a 'A Better Way to Support Veterans' and cites the veteran support system should 'improve the lives or wellbeing of veterans and the families' and that this has at its core 'minimising the harm from service to veterans and their families'.

Yet this draft recommendation creates a scenario where one spouse, due to the age/service of the veteran, would have an entitlement under the VEA, and another would not have an entitlement under the MRCA. This effectively creates a two-tier entitlement which does not 'improve the lives or wellbeing of veterans and the families' and actually increases, rather than minimises, 'the harm from service to veterans and their families'.

Moreover, as noted in our response to recommendation 13.2, the nature of military service is unique. Compensation arrangements are part of a broader implicit contract between Australia and its service personnel, that if those personnel are wounded, injured or killed in service to the nation, that their families will receive the care and benevolence of the nation.





### **Draft Recommendation 14.1**

### **Conditionally Supported**

*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.*

Provided there is no reduction in the overall payment available to eligible veterans, RSL Queensland supports this recommendation.

However, this draft recommendation should be amended to include MRCA Permanent Impairment payments as they are currently reimbursed under the Defence Force Income Support Allowance (DFISA) when offsetting payment of either the Service Pension or Aged Pension.

### **Draft Recommendation 14.2**

### **Supported – provided no detriment**

*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**

### **Not Supported**

*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.*

RSL Queensland supports the consolidation of smaller payments but it must be noted that the MRCA and DRCA Supplements can be paid to White Card holders who are not in receipt of any ongoing payments (Non Liability Health Care is an example). MRCA and DRCA veterans who elect to take a Permanent Impairment lump sum may also not be in receipt of ongoing payments. Trying to simplify this would be too problematic.



#### **Draft Recommendation 14.4                      Supported**

*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.*

RSL Queensland supports the recommendation to pay out clients who are in receipt of these infrequently applied benefits.

#### **Draft Recommendation 14.5                      Noted**

*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.*

The possibility of cross-over with various age care packages needs to be fully considered.

#### **Draft Recommendation 14.6                      Supported providing no detriment**

*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.*

RSL Queensland observes that the current differences in the schemes cause confusion.

#### **Draft Recommendation 15.1                      See below**

*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.*

It is not clear what the community cost of a Gold Card is. RSL Queensland has suggested below that this knowledge is necessary to enable the Government to fully consider the implications of implementing such a recommendation.

The Gold Card appears to be administratively efficient once it is granted, and RSL Queensland strongly recommends that the Commission determine the administrative savings that could be generated within DVA by broader utilisation of the Gold Card. RSL Queensland understands that the majority of veterans



eligible, or likely to become eligible for a Gold Card would fall beneath the private health-care Medicare additional payment cap, and so are unlikely to be accessing private health care. As such, we also strongly recommend that the Commission determine the true cost to government of their proposal, which appears to be simple cost shifting between DVA and the Department of Health.

*As discussed above, the Gold Card is not well targeted to those most in need and it is the Commission's view that it should not be extended further.*

The Commission's comment that the card is not well targeted requires further explanation and consideration.

RSL Queensland also notes the poor monitoring of use of the Gold Card. There appear to be limited mechanisms to ensure clients receive best practice treatment and over-servicing is limited.

### **DVA needs a better mental health and suicide prevention strategy      Agreed**

*The myriad of policy changes in the mental health landscape mean that DVA's (or, in the future, the Veteran Services Commission, chapter 11) role in the system needs to evolve. Notably, its area of responsibility has substantially increased with the expansion of non-liability mental health care. DVA retains ultimate responsibility for the effectiveness of mental health services, regardless of the service delivery arrangements. DVA's responsibility over the system, called stewardship, involves oversight of all the functions of the veteran health system and directly or indirectly affects all the outcomes. As DVA is now funding more services, its stewardship responsibilities have widened.*

DVA needs to monitor the services it provides via White and Gold Cards and ensure all treatment meets best practice standards.

### **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?*

Fee-setting arrangements should always consider the difficulty of accessing medical specialists experienced by clients who live in regional areas.

### **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.*

If the Gold Card is discontinued (Information Request 15.1), it should be replaced by a DVA subsidy on private health insurance. This would have to be fully costed and compared to the current expenditure via Gold Cards. RSL Queensland remains a firm supporter of the Gold Card mechanism.



**The gaps in information about veterans are significant.**

**Agreed**

*A number of inquiry participants raised concerns about the lack of data. The Defence Force Welfare Association, for example, said:*

*Before one can fix a problem, one has to be able to quantify the problem. To measure the success or otherwise of service delivery, or an intervention, the definition of success must be identified and ways of measuring it decided. There is a dearth of statistics in many areas. (sub. 118, p. 33)*

Both DVA and Defence need to do much better in measuring their work outputs and outcomes.

**No whole-of-client analysis**

**Agreed**

DVA should be well placed to understand and respond to the needs of its clients; it provides, and has provided for decades, a range of supports to veterans and their families, often over an extended period of time. But in practice, DVA does not link the data it collects to gain a whole-of-client view. Each process undertaken by DVA has its own dataset, and these datasets are not linked to each other. For example, DVA's claims data has the type and severity of a veteran's service-related injuries, but these data are not linked to the veteran's rehabilitation or health care data. What this means is that DVA does not have an overall picture of the total package of services it provides to individual veterans, and so it cannot assess the effect of those services on veteran wellbeing (figure 16.1).

The failure to understand the overall outcomes of the supports being provided is really the key to the problems they are currently facing.

**Information Request 17.1**

The Commission is seeking feedback from participants on how the two-scheme approach would work for veterans who currently have claims under multiple Acts. What factors should determine which scheme these veterans are covered by for their future claims? Should these veterans be given a choice of which scheme would cover them going forward?

The Commission recommends a rapid transition to a two-scheme approach, with the ultimate objective of a simplifying the compensation and rehabilitation process. Currently there are three schemes; however the relationship between these schemes is well known and impacts across the three are slowly decreasing due to natural attrition over time.

The proposal to move to two schemes does not negate any impacts across the schemes; in fact it creates a more confusing situation depending on a person's date of birth, under which scheme the majority of their claims is accepted or predominate of the current benefits, or their age at date of implementation.

The proposal will create more confusion for both veteranstrying to determine their entitlements and for advocates trying to assist veterans with their claims.



While submissions have called for a single Act, this recommendation will not achieve such an outcome.

As it now stands, a single Act scenario will develop with all veterans eventually being assessed under MRCA. The number of VEA and DRCA claims is reducing, while MRCA claims are increasing.