

The Productivity Commission  
Department of the Treasury  
Parkes Canberra ACT 2600

28 February 2019

**COMMENTS By DFWA WA Branch Inc on RECOMMENDATIONS of THE PRODUCTIVITY**

**COMMISSION DRAFT REPORT DECEMBER 2018 "A BETTER WAY TO SUPPORT VETERANS"**

Please note we not made comment on those recommendations which with we agree.

**DRAFT RECOMMENDATION 7.2**

**Comment on 7.2. We do not believe that the recommendation to prepare a career plan every two years is a practical proposal and necessary.**

**DRAFT RECOMMENDATION 7.3**

**Comment on 7.3. We are of the view that this recommendation should be linked to a minimum period of full-time service in the ADF.**

**DRAFT RECOMMENDATION 8.1**

**Comment on 8.1. In respect to "harmonisation", given the number of veterans and their age profile, we are of the view that there should be no change to the Veterans' Entitlements Act 1986.**

**DRAFT RECOMMENDATION 10.3**

**Comment on 10.3. We do not agree with this recommendation in its entirety.**

- The Veterans Review Board operates well as an independent review of Departmental decisions and should continue as at present, but move to the use of the alternative dispute resolution process for all cases subject to additional staff for the ADR process.
- A hearing by a single Board member is an unacceptable proposal while the situation continues that the majority of VRB members have legal qualifications but a veteran appearing before a legally qualified member is NOT allowed to be supported or represented by a legally qualified person. (See recommendation 24 of the Senate Report: The Constant Battle; Suicide by Veterans.)

- The proposed referral of veterans to the AAT has the potential to increase costs to veterans and may encourage paid advocates and legal firms to delay cases.
- The current Alternative Dispute resolution (ADR) system was developed to clear a backlog of claims waiting to be processed by the VRB but is, in our experience, also creating a backlog. If an ADR case is relatively simple the resources allotted to the ADR are adequate, but once a case becomes complicated the process stalls and is quite often referred back to the VRB where it waits in a queue.
- Delays due to the ADR process can be tiring on the veteran, especially on those with mental illness, going directly to the ADR process will not work in all cases. There is a need to retain the right for the veteran to choose between the ADR process or going direct to the VRB.
- It is ludicrous that a lawyer is not even allowed to be present at a VRB hearing. There are advocates who are legally qualified so they have to hand over their cases to another person to represent the veteran at a hearing. There are also veterans who are legally qualified, a matter not considered by the legislation.
- An advocate and a veteran appearing before the VRB are not on an even playing field if the Board comprises three lawyers and does not include a member with medical qualifications. This situation is daunting to the veteran and representative and can raise anxiety levels, especially in the veteran.

#### **DRAFT RECOMMENDATION 10.4**

**Comment on 10.4. We agree that consideration should be given to a further review of the claims process in 2025. We do NOT agree that an outcome of the review, that is, the abolition of the VRB, should be pre-ordained.**

- We are of the view that, historically, internal reviews (which is what this recommendation proposes) have not worked to the benefit of veterans, eg, the current review process within DVA such as Section 31 of the VEA, does not produce the results the Veterans Review Board has.
- The VRB must remain (with some adjustments, see above) as it provides the veteran his/her time to place their point of view provided the Board members include persons with ADF experience and medical knowledge
- We suggest that part of the problem with the VRB and ADR can be a reluctance of DVA delegates to make a beneficial decision on a claim. We also suggest that repatriation commissioners exercise a review process over all decisions made by their delegates.

#### **DRAFT RECOMMENDATION 11.1**

**Comment on 11.1. We do not agree this recommendation. Veterans' policies should NOT be a subordinate role of the Department of Defence, and we do not accept the folding of the ministries of Defence Personnel and Veterans Affairs into one portfolio.**

A contingency planning approach also suggests that in the event of an expansion of the ADF, Defence will be pre-occupied to the extent that policies for veterans will be subordinated to more pressing issues.

**DRAFT RECOMMENDATION 11.2**

**Comment on 11.2. We accept this recommendation subject to the new Commission, the VSC, reporting to the Minister for Veterans Affairs' and sitting alongside an ongoing independent Department of Veterans' Affairs and NOT within the Department of Defence (see 11.1 above).**

We support;

- an independent Board to oversee the Commission with board members (not full time) drawn from relevant fields and disciplines, including some with extensive experience in the ADF;
- the appointment of a CEO by the Board – this will give the appointee a more secure position in respect to political directives; and
- the proposed functions of the VSC.

**DRAFT RECOMMENDATION 11.3**

**Comment on 11.3. Agreed, on the basis that the advice be given to the Minister for Veterans' Affairs.**

We also note that this may diminish, or cease the existence of the meetings of the Ex-Service Organisations Round Table (ESORT), but we note that ESORT **cannot** be promoted as effective consultation by DVA with ESOs because on many, if not a majority of occasions, there is little or no opportunity for those ESO representatives attending ESORT to consult with their members.

**DRAFT RECOMMENDATION 11.4**

**Comment on 11.4. We do not accept this recommendation.**

The current arrangements should continue, that is, a smaller DVA should retain this function.

**DRAFT RECOMMENDATION 11.5**

**Comment on 11.5. We do not disagree with the further consideration of this funding concept once any new governance arrangements have been directed by Government and are in place.**

However, as the current veterans support system is fully funded (especially in respect to medical expenses), the Productivity Commission should report further on what arrangements are needed to fund the system in the event that premiums based on past history are insufficient to fund an upsurge in veterans requiring support.

**DRAFT RECOMMENDATION 12.1**

**Comment on 12.1. We think that this recommendation is unnecessary.**

As the DRCA and MRCA cover different periods of service and conditions of service, the cost and confusion caused by "harmonising" the two would, in our opinion, add to costs with little benefit to DRCA clients. Considering the small number of potential new DRCA claims the cost of change is, in our opinion, not warranted.

**DRAFT RECOMMENDATION 13.1**

**Comment on 13.1. We reject this recommendation. While the level of treatment for similar injuries should be the same, the compensation for injuries incurred under war-like conditions should continue to be paid at a higher rate as compared to non-warlike and peacetime service.**

We note that;

- Under some circumstances ADF members have received the TPI/SRDP rate even though they have not had eligible service.
- However, the distinction between the level of a higher level of compensation for service (in war or peace) from injuries/illnesses incurred in war or war-like operations has existed since World War I principally, perhaps, because the participants in the First World War were all volunteers. We are loath to see change to that policy without a more extensive policy discussion being developed by the Commission.
- No matter how realistic peace-time training may be, operational conditions and dangers will always be more demanding and exceed those in peace.
- Peace time training conditions, no matter how realistic, cannot replicate what happens under operational conditions in terms of the unpredictability of events, the impact of personnel and equipment losses, the intentions of the opposition to do fatal harm to members of the ADF, the difficulty of dis-engagement and the potential (and actual) failure of supporting forces, and the later effect on a veteran of traumatic circumstances.
- If the severity of risk in operations is considered to be no more than in peace, and one level of compensation is deemed applicable and just for both situations, then for what reasons are members of the ADF deployed on operations given income tax concessions and receive deployment allowances?

**DRAFT RECOMMENDATION 13.7**

**Comment on 13.7.** Those persons who are currently likely to receive this beneficial entitlement from MRCA should not be penalised by its removal.

Yours faithfully,

Richard Usher

President DFWA WA Branch Inc