

## ADVOCACY, ENTITLEMENTS AND SUPPORT (AES) SPOT<sup>1</sup>

### Introduction

In my last three articles, I have been discussing some of the influences impacting on the delivery of advocacy services to veterans and their families/dependents. Since the Autumn article, the wick has been turned up significantly. Of the 24 recommendations in the 2017 Senate Inquiry into Suicide by Veterans, three related to the delivery of advocacy services and/or the training of military advocates. In this article I would like to explore the inquiries that have resulted from these recommendations. The views I express are my own and do not necessarily reflect those of the National Board.

### Australian National Audit Office

Although the ANAO is more focused on DVA's internal systems and has closed its invitation at the end of March, its efficiency audit is no less crucial than the other two inquiries. Its ToR (Terms of Reference) address two questions. Paraphrasing:

- Question 1: How efficient are DVA's business systems and processes in supporting the delivery of services to veterans and their dependents.
- Question 2: How efficiently are DVA's compensation, support and health services delivered to veterans and their dependents.

As a Member of ADSO, Air Force Association joined in the submission to ANAO. To put this into context, ADSO now has 19 members and represents the interests of around 90,000 ex-service personnel. Its voice is therefore not insignificant. The ADSO submission addressed the following key issues and concerns:

- Acknowledged the improvements arising from VCR (Veteran Centric Reform Program), and especially 'Project Lighthouse' (the investigative and design processes that led to the business case which justified an additional appropriation in FY2017-18 for VCR).
- Noted that improvements included internal culture change, MyService (a wizard-based on-line claims form for all with a PMKeyS number), computerisation of files and scanning of all hard copy documents on receipt by DVA, and opening of mental health support through Non-Liability Health Care (NLHC) for all personnel with one-day's continuous fulltime service and automatic issue on discharge of a White Card for mental health care.
- Emphasised the importance and value of the open consultations and long-term business process re-engineering inherent in VCR and the crucial need for continued funding so that the gains to date and change momentum are not squandered.
- Expressed concern about the inefficiencies within DVA and difficulties for veterans and dependents arising from the complexity of entitlements existing in three Acts and internal systems that are independent of each other.
- Recognised the unpopularity of SoP (Statements of Principles) in some quarters, but their strength in clarifying the relationship between service and condition, and the need for them to be extended to DRCA.

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<sup>1</sup> Article was prepared by R.N. (Dick) Kelloway, National VP, accredited Level 3 Compensation and Level 2 Wellbeing Advocate.

- Noted the hurt and suspicion that among younger veterans exacerbated by the barrage of adverse comments on social media, and the need for DVA to broadcast frequently and loudly its good news stories about improvements in claims processing.

### **Productivity Commission**

The PC 'Inquiry into Veterans' Affairs' Legislative Framework and Supporting Architecture for Compensation and Rehabilitation for Veterans (Serving and Ex-serving Australian Defence Force Members)' has been tasked by the Treasurer to '*examine the effectiveness of the governance, administrative and service delivery arrangements that support the legislation (the 'supporting architecture')*'. In more detail, the ToR stipulate investigation of:

- whether the arrangements reflect contemporary best practice, drawing on experiences of Australian workers' compensation arrangements and military compensation frameworks in other similar jurisdictions (local and international);
- the use of the Statements of Principles as a means to contribute to consistent decision-making based on sound medical-scientific evidence; and
- whether the legislative framework and supporting architecture delivers compensation and rehabilitation to veterans in a well targeted, efficient and veteran-centric manner.

As a member of ADSO, AFA is engaged deeply in preparing a submission on behalf of the 19 members, but will also be submitting in its own right. National President Carl Schiller has circulated a draft framework of responses ('Talking Points') to all Division Presidents, with the request that the framework be considered by Division Committees and forwarded to all Branches.

ADSO has already submitted a part-submission entitled the future of advocacy, which should be available on the PC website by the time you read this article. A summary of that submission's key points follows. For those who would like to read the full submission (and others) the URL is: <http://www.pc.gov.au/inquiries/current/veterans/submissions#initial>

The key points in ADSO's future of advocacy submission are:

- The transition from TIP (Training and Information Program) to ATDP (Advocacy Training and Development Program) has already initiated the professionalisation of advocacy services, with further advances from 01 July 2018 when CPD (continuing professional development) and QA (quality assurance) begin.
- Professional advocacy will be marked by its accepted norms: honesty and integrity, specialised knowledge, advocacy skills, national standards of competency, self-motivated learning and skills development, self-regulated performance grounded in critical self-analysis and accountability.
- Australia's veterans' legislation is the unique product of its unique societal values, military traditions, veterans' needs, and budget constraints.
- Professionalisation of military advocacy needs to be holistic, engaging governance, professional ethics, training and professional development, performance standards, and professional indemnification.
- Professionalisation would be best advanced by the creation of an independent professional body that governs, manages and administers military advocacy on behalf of ESOs.

## **Independent Scoping Study**

Hon Darren Chester MP, Minister for Veterans' Affairs, announced the Scoping Study on 16 April 2018. Being led by Mr Robert Cornall, AO, the Scoping Study is comprehensive. The URL, including ToR and Mr Cornall's biography, is: <https://www.dva.gov.au/consultation-and-grants/reviews/veterans-advocacy-and-support-services-scoping-study>

It is to examine the following:

- range of advocacy and welfare services currently provided by both volunteer and paid professionals from the ex-service community, government and the legal sector;
- current challenges and barriers in accessing entitlements and services and the impact they have on veterans' wellbeing;
- needs of different veteran cohorts for professionalised advocacy support and the potential benefits to each cohort;
- different models for professionalised advocacy both within Australia and overseas to determine the most suitable model so veterans have:
  - a sustainable, consistent and reliable advocacy service which is scalable based on demand;
  - an efficient and effective service to assist them to access their entitlements so they can focus on more important things, such as rehabilitation and their civilian life;
  - a level of service which, at a minimum, is comparable in quality and value with other cohorts accessing government entitlements;
  - a service based on their needs, irrespective of age, and which adequately protects their interests; and
  - access to advice on why their claim was unsuccessful and options for appeals;
- governance and quality frameworks available to deliver performance driven professionalised advocacy and service models, including recommending the most appropriate frameworks and any partnerships required to achieve this outcome;
- roles and responsibilities of traditional, new and emerging stakeholders within the veterans' advocacy sector as it stands and under any future model, articulating the value and contribution of those roles and responsibilities in professionalising veterans' advocacy;
- costings for all models considered; and
- timeframes and strategy for implementation, including: key milestones, risks, change management and transitional considerations.

Again, ADSO will prepare a submission to the Scoping Study, as will AFA. As the Senate Inquiry into Suicide by Veterans included the recommendation that the Veterans Affairs Canada's Bureau of Pensions Advocates (BPA) be considered, we should expect that the ToR of both the Productivity Commission's and the Scoping Study's inquiries will follow-up on that recommendation. BPA's Factsheets are a good place to start if you would like to know more. The URL is: <http://www.veterans.gc.ca/eng/about-us/organization/bureau-pensions-advocates/fact-sheets>

In brief, there are some rather significant differences between Australia's Military Advocacy practices and the Bureau's. Some of the key differences are:

- BPA does not provide:
  - support for primary claims;
  - wellbeing advocacy support;
- clients are denied attendance at higher levels of appeal (AAT and Full Court equivalents); and
- being embedded in VAC, there is (at least) a perceived conflict of interest.

The Senate Inquiry's recommendation arose for the advocacy of a cadre of veterans that argued adoption of the BPA model. Interestingly, although some of the cadre practice as volunteer advocates at both the VRB and AAT, they continue to advocate on social media for advocacy at those levels to be undertaken by lawyers. From personal experience, and from conversations with VRB Members and other advocates, the VRB is anything other than adversarial. While it is certainly inquisitorial, if the advocate has missed an argument or made a glaring error, the Board will suggest adjournment rather than make a decision on an incomplete or erroneous argument.

The AAT is, however, adversarial – albeit with the task of reviewing the claim and appeal *de novo* (starting from the very beginning). While not proposing that all AAT representation be by a lawyer, some other advocates argue that, as they are not legally qualified, they are at a disadvantage because they are contesting an AAT appeal against a barrister representing the Commission. From a future of advocacy perspective, the professionalisation of VRB advocates would benefit from their greater competency in applying legislation and case law. At the AAT level, the inclusion in advocates' training and development of para-legal units of learning would certainly better prepare them for the adversarial nature of the Tribunal.

### **RAAF Firefighters Support**

On a different tack: a group of RAAF firefighters have done a tremendous job in bringing to the attention of senior DVA staff the medical conditions that they relate to toxic exposure in firefighting foam. They have around 40 ex-RAAF personnel who receive their regular newsletter, and another 500+ personnel are understood to have been exposed to the same chemicals.

Research at Point Cook has apparently discovered the presence of well over 100 different chemicals in firefighting foam. While medical-scientific, epidemiological research has not yet validated an incontestable causal link between each of or certain chemicals, DVA and AFA are coordinating their efforts to assist the firefighters with their claims. Three current AFA Level 3 Compensation Advocates are being trained in the medical science, before facilitating the submission of claims.

Given the number of personnel that have been exposed to firefighting foam and that some are serving younger veterans, a key task will for the advocacy team will be mentor other advocates to provide ongoing support. I would welcome contact from any veterans who would like to undertake ATDP and firefighting foam-specific training. Similarly, AFA is vitally interested in hearing from any other ex-RAAF or serving personnel with toxic exposures.

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