

ADVOCACY, ENTITLEMENTS AND SUPPORT (AES) SPOT¹

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. You will remember that three of the 24 recommendations in the Senate Inquiry into Suicide by Veterans focused on aspects of the delivery of advocacy services. In this article I continue exploration of the inquiries. The views I express are my own and not necessarily those of National Council.

Australian National Audit Office

The ANAO Report No 52 2017-18, Efficiency of Veterans Service Delivery by the Department of Veterans' Affairs has been released and can be read in full through the following URL:

<https://www.anao.gov.au/work/performance-audit/efficiency-veterans-service-delivery-department-veterans-affairs>

In brief the ANAO found that:

- The majority of DVA Rehabilitation and Compensation services are being delivered within the Department's time-based performance targets.
- Weaknesses in DVA's business systems and processes do not adequately support the efficient delivery of services. DVA should improve workflow management and its highly segmented approach to processing claims.
- Claims that had a high time-taken-to-process stemmed from excessive delays through medical review and in actioning a claim despite the information being available.

Research of the ANAO Report during drafting of the submission to the Productivity Commission discovered the following '*factor supporting conduct of the audit*'.

'A Functional and Efficiency Review (May 2016) of DVA recommended that service delivery functions either be outsourced or transferred to other agencies. The review stated that the reform would lead to 'administrative efficiencies'

This led to research of the Department of Finance (DoF) Annual Report 2016-17 which discovered the statement that its '*Reviews in FY2015-16 delivered savings of about \$2.7 billion.*'

<https://www.finance.gov.au/publications/annual-reports/16-17/>

As the Air Force Association is one of the foundation members of the Alliance of Defence Service Organisations (ADSO), our input is being submitted through ADSO. In that way our inputs become part of a submission that represented the views of 18 ESOs. The power of the ADSO submission has been reinforced by the support extended by the RSL and Legacy's National bodies.

ADSO has expressed profound concern that the DoF position appears to be evidence of economic rationalism. This conclusion was reinforced by further research which discovered the DoF's Contestability Programme Guidelines, which state that:

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'The Government committed in the 2014-15 Budget to applying a Commonwealth-wide Contestability Programme to systematically review government functions, in whole or in part, with a view to entities improving the effective achievement of government outcomes.'

https://www.finance.gov.au/sites/default/files/Contestability_Programme_Guidelines_March_2015.pdf

Given DoF's enthusiastic acclaim of the savings it made in the Programme's first year of operation, in the context of successive governments' budget constraints and drive to create mega-Departments, it is easy to be a little concerned about where this may lead. Indeed, that concern has led to ADSO to make a robust submission to the Productivity Commission.

Productivity Commission Submission

During our research of this submission we discovered a remarkably well researched book by C. Lloyd and J. Rees, published in 1994, *The Last Shilling: A History of Repatriation in Australia*. From Chapter 19, '*Change and Innovation*,' we have excerpted the following.

- In 1979, when the Government created the Repatriation Review Tribunal, the '*Attorney-General's Department tried to poach responsibility for the RRT*'. Observation: The Senate Inquiry recommends that '*a Bureau of Veterans Advocates be established, comprising legally trained public servants who assist veterans claim and fund Legal Aid to assist veterans' appeals*.' We noted that Legal Aid is co-funded by the Attorney-General's Department and some States.
- In 1981 the Fraser Government reaffirmed it would maintain Repatriation General Hospitals (RGH) and appointed a geriatric consultant; but on estimating that, by 2000, the number of frail and aged veterans would treble, in 1984 a review of RGH found that integration of the State and RGH systems was inevitable. In 1988 the Government announced the transfer would occur in 1995, which was then brought back to 1992. The consternation expressed by the veteran community led to the (then) Government assuring in writing that the transfer '*will not proceed if [there is] reasonable cause for dissatisfaction*'.
- By 1982 the veterans' legislative system included over 80 separate pieces of legislation prompting recommendations for consolidation of '*unnecessarily complex and cumbersome [provisions] that militate[ed] against public understanding, consistent interpretation and effective administration*'.
- As the result of the Fraser Government's 1983 review of veteran's legislation, when the Hawke government was elected, the Minister (Gietzelt) '*played up*' the ex-service community's hostility to the 1984 mini-Budget as '*unknown to the ex-service community*' the Minister '*was fighting off attempts by DoF to convince Cabinet that all veteran's applications, appeals and claims should be determined on the civil standard of proof*'.
- In 1985 DVA was unable to prevent attempts that had been included in the mini-Budget '*to limit consultation with the ex-service community and to avoid a potentially hostile Senate*'. The '*thrust of the mini-Budget came from senior public servants in DPM&C and Finance*'. The '*clamorous indignation of the ex-service community [caused Government] to back off. Not only did [the Government] reinstate many diminished entitlements but it was forced into further concessions in ensuing parliamentary battles*'.
- The (then) Secretary successfully fended off an attempt by Cabinet during consideration of the Veterans' Entitlements Bill 1985 (VEB) to vest in the Minister the

'power and direction of all administrative activities and functions of the Repatriation Commission...[except for] determine[ing] pension applications and rates'.

- On 25 July 1985 Gietzelt wrote to Hawke expressing reluctance to cover new members of the peacetime ADF under the VEB as it would *'unnecessarily prolong the life of DVA'* beyond the mid-1990s. Gietzelt proposed that Defence should compensate its service personnel. In the event, the Government *'had to accept'* continuing entitlement but added the proviso that *'it would cease when a new compensation scheme'* was implemented.
- *'Compared with the lacerations inflicted on the welfare system by the proponents of small government, the 'New Right'. Public choice theorists, and libertarians during the 1980s, repatriation escaped virtually unscathed'.*

In the context of 'The Last Shilling', the Government's Contestability Programme and DoF's recommendation after its *Functionality and Efficiency Review* of DVA, the grounds appear to exist for the veteran community to be concerned about the longevity of DVA. ADSO took the following approach in its Submission to the Productivity Commission. The URL is:

<http://www.pc.gov.au/data/assets/pdffile/0005/229433/sub085-veterans.pdf>

Through ADSO we:

- expressed concern that the DoF approach would justify further Budget constraint putting downward pressure on DVA's appropriation. DVA would be progressively reduced to a rump, in time justifying its abolition. This would be absolutely unacceptable to the veteran community. If this occurs, the veteran community response would be trenchant.
- noted that the Nation's duty of care, first legislated in the *Australian Soldier's Repatriation Act 1920* and unaltered in the *Veterans' Entitlements Act 1986* (VEA), has already been weakened in *DRCA* and *MRCA*. Comparison of the Explanatory Memorandums and Second Readings of *Veterans Entitlements Bill* and the *Military Rehabilitation and Compensation Bill* confirms a transition from overt legislation of a *'beneficial intent'* to, at best, implied acceptance of an obligation. If the Government fails to preserve in veterans' legislation that 100-year old commitment the Nation's defence would be placed in jeopardy.
- expressed the further concern that Government may see the downturn from intense ADF operations as an opportunity to resile from the Hughes Government's commitment to veterans, widows and orphans after WWI. In this respect, it noted that the Commission's Issue Paper's invidiously compared veterans' entitlements and the social services available to the civilian community. Any such thinking is totally unacceptable to the veteran community. Inevitably, any reduction in entitlements would provoke a vigorous response.
- concluded that the Inquiry is an opportunity to reinforce the Nation's century-old social contract and to amend veterans' legislation to include a Military Covenant. Canada and New Zealand have already done so. Failure to do likewise will perpetuate Australian legislation's third rank in world's best practice. Failure to do so undermines the sacrifices of life, health and wellbeing that the Government and

Nation have expected, and continue to expect, of ADF personnel and their families in both peace and conflict. The ramifications of economic rationalism for national security and societal values are decidedly perilous.

Through ADSO we recommended, amongst other things, that:

- the national defence and social consequences of an economic rationalist approach to veterans' support are unacceptable;
- a Military Covenant be legislated in *VEA 1986, DRCA 1988 and MRCA 2004* to bring Australian veterans' legislation up to world's best practice; and
- 'warlike' service be redefined so that the Beyond Reasonable Doubt standard of proof applies to all service including peacetime service where:
 - the risk of injury, disease or death is high; and
 - 'clusters' of conditions occur amongst veterans with toxic or other exposures.

Independent Scoping Study

As the Spring 2018 edition of Wings goes to the press, the ADSO scoping study is being finalised across the 18 Members of ADSO. It is due to be submitted on 8 August. You should be able to access within a couple of days of submission. The relevant URL is:

<https://www.dva.gov.au/consultation-and-grants/reviews/veterans-advocacy-and-support-services-scoping-study/submissions>

Conclusion

Current research suggests that the veteran community could see itself without a dedicated Department to administer veterans' legislated entitlements. Were the Central Departments to progress now the outcomes discussed in *The Last Shilling*, it will take concerted effort to reverse the trend. We are fortunate, therefore, to be a founding Member of ADSO - the 'third leg of the ESO platform'. For that platform to be firm, ADSO, RSL and Legacy must work together. This will involve more than joint effort at the national level. To be effective, the Members of every Branch, Sub-Branch and Club will have to unite behind their ESO's leadership.

Reflecting its new strategic direction, Air Force Association is taking a highly proactive stance in advocacy to Government, Departments and Inquiries/Reviews. Our objective is to protect RAAF serving personnel and ex-RAAF veterans and their family's entitlements. We are especially concerned about the rights and entitlements of current service personnel and future veterans. We will be applying all effort to ensuring that current legislation is not amended to erode entitlements. Were any proposal emerge in future for new veterans' legislation to be drafted, we will apply all effort to ensure that the 'beneficial intent' of VEA is reinstated.

Richard Kelloway