SUBMISSION TO PRODUCTIVITY COMMISSION INQUIRY INTO COMPENSATION & REHABILITATION FOR VETERANS

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AN ABOMINATION OF ADMINISTRATION: VETERANS FORCED TO FIGHT A PROLONGED BATTLE WITH CONVOLUTED VETERANS AFFAIRS LEGISLATION & AN INSENSITIVE, DOGMATIC BUREAUCRACY

Introduction

Thank you for the opportunity to contribute to the inquiry. I seek to highlight my husbands appalling experience of the veteran affairs system, but from my perspective as a wife supporting an ill husband, while looking on in despair at how the system that is supposed to support him materially contributed to his health decline. The vexing, inflexible and protracted claims system, in particular was a constant source of stress, anxiety and worry for us at a time where he least needed that during long-term illness.

To provide context, my husband was partially blinded in one eye during service physical training (a delayed onset that was later causally linked to traumas he suffered in service). Being partially blinded was traumatic enough for him, but it was accompanied by severe disabling pain, vertigo and nausea requiring fifteen emergency department admissions in 2016/17. Serious gastrointestinal problems arose needing five endoscopes, then he was diagnosed with cancer and had another traumatic surgery.[1]

My husband is a military officer with over 25 years of service and at the time of his illness was serving in senior roles. The impact of multiple health conditions resulted in the loss of his leadership positions and he became ineligible for promotion or overseas service. To the military's credit, they did provide him with all the healthcare and time off work he needed. But parallel to these severe stressors he was desperately fighting the DVA and VRB for recognition of his potential retirement impairment conditions.

Bottom-Line: The system for liability claims is a total nightmare for veterans and their families to navigate and must be improved with a level of urgency. There is a paradox of care, as DVA is supposed to help veterans but glacial and adversarial bureaucracy leads to worsening health outcomes for veterans who run afoul of the claims process.

Key Issues:

Inefficient Claims Assessment. The current system where veterans have to retrospectively prove their conditions are service related is utterly broken. DVA should have access to medical records and proactively (or automatically) confirm liability soon after an injury or illness occurs in service.[2] *Waiting an average of 17 years to assess claims is unworkable.* Veterans do not submit claims for fear of being medically downgraded and damaging their career prospects, as has happened to my husband.

Multi-Legislation Confusion. For veterans like my husband who have multiple liability claims that span all three Acts (VEA, DRCA & MRCA), the complexity is substantially

[1] Complications developed after this surgery, which resulted in an extended and agonising stay in hospital.

[2] This should probably be optional for members who wish to opt out for DVA to have direct access and are comfortable to wait till the end of their careers to finalise any claims.

compounded, further increasing processing timelines. *DVA staff were either unwilling or simply unable to suggest, which Acts would provide the most optimal benefits* and support arrangements to my husband should he be medically retired. Consequently, he has essentially been flying blind in terms of what Acts to seek acceptance under.[3]

Incompetent RSL Advocates. The first advocate my husband approached provided little useful advice and was nothing more than a post-box for claims letters. He struggled to remember details of my husbands claim and was not proactive. *The next advocate was not much better*.[4] Just prior to a VRB outreach meeting we found him playing Solitaire on his computer. Clearly not focussed on my husband's best interests, noting the complexity of his claims. We also found that both advocates had inaccurately advised which Acts to claim under, which further delayed his impairment claims.

Inflexible SOP Application. Perhaps the most diabolical part of the claims process is the SOPs for medical conditions. These are a one size fits all system that is outdated and used by DVA as a primary means to reject claims. *The SOP system further obfuscates liability claims that are not covered by an SOP.* This affected my husband as two of his conditions were non-SOP, so were automatically rejected. His file was also lost twice, before DVA denied his claims. Two years later we are still waiting for an outcome and the acute stress to be lifted that this dreadful SOP system has caused.

Failed Duty of Care. During the long appeals process, my husband's mental health declined after suffering an avalanche of serious health issues that precipitated the stalling of his career. He sent DVA and VRB staff a letter from his Defence provided Psychologist re his distress due to the extended alternate dispute resolution. This letter was ignored. *DVA and VRB staff were also aware of how unwell my husband was but did nothing to expedite his appeal*. This entrenched indifference to veterans without accepted claims aggravates their deepening sense of distress, mistrust and frustration.

Unfathomable Unfairness. Alternate Dispute Resolution (ADR) is clinical and heartless. My husband could not believe the awful process veterans were made to go through at the end of their careers, especially when they were suffering from service related health conditions. *The anger he felt at the injustice of a system that seemed geared against him railed with his sense of duty and the sacrifice he made over a long military career – how could they do this to ill veterans*? Especially when he had several specialist reports confirming his conditions were service related. *If he had known this horror would unfold in the twilight of his career he might not have joined the ADF.*

Superannuation Stress Magnification. To make matters worse, my husband found himself in a vicious vortex of administrative uncertainty. CSC[5] advised him that he would be assessed for a medical pension only after he was discharged. This meant he could end up either with nothing (C Class Pension) or a substantially reduced income, no DVA loss of earnings payments or medical coverage, given his retirement impairment claims were intractably mired in rigid VRB processes. *This financial uncertainty substantially*

[3] The online claims link does not permit you to choose which Act you claim under. There is no FAQ or a summary link as to what the benefits are for each Act. I expect as this is too complex, so this is another area for reform.

[4] This RSL Advocate was not always responsive and either ignored emails or sometimes took weeks to reply. Later complaining his case load was too high. Yet he found time to play computer games before a VRB outreach.

[5] Commonwealth Superannuation Corporation aka Military Super.

magnified my husband's mental anguish, as nobody could provide him with reassurance that he would be financially and medically supported if he lost his job.

Medical Practitioner Ignorance. Issues veterans face resonates beyond DVA and the VRB. The Australian Medical Association also needs to step-up to educate medical practitioners on the complexities of veteran health, causation and the importance of their medical report to the veteran's financial future. *Many Doctors my husband went to were ill-informed of veterans needs in dealing with an 'insurance-like' DVA who pettifog medical evidence.* One refused to provide him with a supporting letter, while others provided vanilla responses. Fortunately, other Doctors understood and had an appreciation of the injuries he sustained in service and their long-term impact. However, dealing with *veteran ignorant doctors* was yet another unwelcome stressor.

Doctor Double-Handling. Another claim delay factor is DVAs procedure to have medical reports sourced by veterans *double-checked* by contracted DVA doctors. In my husband's case the head of a neurology department in a major metropolitan hospital and an ENT Surgeon both provided opinions that his chronic health conditions were causally related to injuries in service. Yet the VRB process ignored these specialist reports and called for yet more medical reports.[6] Almost a year later the head of another neurosciences department and a General Physician also provided reports that were in unanimous agreement with the earlier reports.[7] *The sheer waste in resources is staggering and the burden of proof veterans must provide is totally unreasonable.*[8]

Army Medical System. The military Medical Classification System is also a complex policy, that serving members like my husband are subjected to. So given my husband's serious health conditions he was medically downgraded. *However, this system was also a source of acute stress, as while he waited for a decision on his future employment he was also anxious about his delayed retirement impairment claims*. If he was forcibly retired, the fact that he was still in an appeal process made no difference, so he could be out the door with no income or medical support. This was exacerbated as again, nobody could provide him with concrete assurance as to what the outcome would be.

Conclusion. *In the last two years my husband and our family were caught in a confluence of horrendous circumstances that created unnecessary anxiety and should never have been allowed to occur.* Having been through this nightmare we begin to understand why some veterans elect to take their own lives due to other deleterious factors that may be present in their lives, such as breakdown of marriage or the loss of financial security. I urge the Productivity Commission to find the administrative choke

[6] When my husband was advised of this VRB decision to call for more medical reports it caused an acute stress reaction and the next day he was in the emergency room in agony and collapsed on the floor in a pool of his own vomit, until nurses came to collect him. He later advised DVA, VRB and VVCS staff of this traumatic event by email, but the VRB ignored him. Further heightening his distress and anger at an insensitive system. However, he was referred to the Complex Case Team by VVCS and many of his other claims began to be processed. But his most important claims remain outstanding and have been ongoing for 8 months or more. His Initial liability claims submitted in June 2016 are still not resolved by the VRB two years after they were submitted to DVA.

[7] The ENT Surgeon also provided a second more detailed medical report that made it crystal clear my husband's claim should be supported, but this too was ignored by the inflexible VRB Conference Registrar (ex DVA employee).

[8] The initial Neurologist report in June 2017 was denied as the Conference Registrar pettifogged the evidence, so he called for an expensive medico-legal report from the same Neurologist. This second report was not submitted to the VRB until June 2018 – these delays are totally unacceptable and cause prolonged mental strain on veterans.

points[9] for veterans and fix them and to strongly recommend extensive changes in how the liability claims system[10] operates. A DVA cultural reform program is well overdue.

Recommendations:

- **One Act.** The extant three Acts must be repealed and a new '*Veterans Welfare and Compensation Act'* should be established. This new Act must grandfather affected veterans and provide choice as to the type of compensation provided.[11]

- **New Department Name**. The Department of Veterans Affairs name does not engender the requisite culture and mindset needed to support vulnerable veterans. A suggested name is: *Department of Veterans Welfare & Support*.

- **Burden of Proof Relief**. DVA should be proactive in accepting liability claims soon after they occur.[12] Medical evidence should no longer be double-handled to cut claims costs that could then be reinvested in DVA reforms and veterans.

- **SOP Abolishment**. Inflexible SOPs must not be in the new Act. DVA should only use specialist medical reports or medical notes from the veterans file to make a determination.[13] This will substantially improve flexibility in the claims process.

- **VRB Reform**. The Alternate Dispute Resolution experiment is an abject failure and a priority to be halted. Appeals should be handled by an online system that streamlines the process and ex-DVA employees barred from final decisions.

- **Veteran Triage**. There should be procedures to manage vulnerable veterans who are approaching medical discharge, are in financial distress or who have flagged to DVA or VRB staff they have a worsening mental health condition.

- **AMA Support**. The AMA should develop a new weblink for doctors to access this for information on how to manage veterans. This should include report templates, FAQ and information on health conditions that veterans suffer from.

- **CSC Pension Certainty**. Veterans who are facing medical discharge should have their medical pension entitlements assessed prior to any decision to discharge them from the service. This will alleviate a significant level of anxiety.

- **Advocate Professionalisation**. Advocates could be public service staff established in the Department of Human Services. A personalised service could be a requirement with Advocates located in all DHS offices around Australia.[14]

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[9] This includes a holistic approach: DVA, VRB, AMA, CSC & ADF are all to blame for the current appalling situation. Reforming just the DVA and VRB will only fix one component of a much wider problem facing vulnerable veterans.

[10] The VRB is supposed to be separate to DVA, however the VRB Conference Registrar is an ex-DVA employee, so how can they be truly impartial if they are cut from the same cloth? A 'wolf in sheep's clothing' springs to mind.

[11] For example, veterans should be offered a menu of options for compensation, either a one-off lump sum payment, indexed fortnightly payments or a combination. A lower threshold should be established for eligibility for a DVA Gold Card. Permanent impairment assessments should happen automatically prior to discharge or when they are medically downgraded to MEC 4. Priority should be for members who are at risk of medical separation.

[12] The Department of Defence medical JEDI system should also be updated to manage this, so it is linked to DVA IT systems. It could all happen seamlessly so that veterans arrive at the end of their careers with claims completed.

[13] One specialist report should be sufficient to justify claim acceptance. Calls for a second report only by exception.

[14] DHS Advocates should also have appropriate social services or similar qualifications.