DFWA RESPONSE TO

THE DRAFT REPORT OF THE PRODUCTIVITY COMMISSION INQUIRY INTO COMPENSATION AND REHABILITATION FOR VETERANS

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DEFENCE FORCE WELFARE ASSOCIATION (DFWA) RESPONSE

This is the response by the DFWA to the draft Report of the Productivity Commission (PC) Inquiry into Compensation and Rehabilitation of Veterans dated December 2019.

DFWA Background

As outlined in our initial submission to the Issues Paper, the Regular Defence Force Welfare Association was formed in 1959 with the encouragement of the government to represent the interests of members of the regular Defence Force in the issues confronting them. More recently, we became DFWA to reflect the role of representing both Reserve and Regular members of the ADF.

The enduring purpose of DFWA remains as:

"*to foster the best interests and wellbeing of all members of the Australian Defence Force and their families in any matter likely to affect them during or after their period of service."*

Apart from advocacy and welfare support to Veterans and their families, DFWA actively represents Veteran interests to government and political parties at Federal and State level, government departments, the media and the public. In doing this, DFWA was instrumental in the formation of the Alliance of Defence Service Organisations (ADSO) in 2010 to promote collaboration among ESOs and to provide a more united Veteran voice to government, parliament, the media and public.

In addition, DFWA has the following official roles:

- DFWA is an "Authorised Intervener" at the Defence Force Remuneration Tribunal (DFRT) and makes submissions regarding Pay and Conditions of Service on behalf of serving members including the Workplace Remuneration Arrangement (WRA) hearings every three years.
- The Vocational and Education and Training (VET) system has the aim of providing individuals with work-ready skills and allow Australia-wide recognition of training by various organisations based on nationally consistent qualifications and statements of attainment. ADF Training is addressed in the Public Safety Industry Advisory Committee comprising employer and employee representatives (union officials) from the Emergency Services sector. The ADF is represented by Department of Defence as Employer and the DFWA as the ADF Member ("Employee") representative.

PREFACE

The ESO community has been hit with requirement to respond to about 10 major government-initiated Inquiries over the last 15 months. Many of these have overlapping Terms of Reference (TOR), e.g., this Inquiry and the Veterans' Advocacy and Support Services Scoping Study (VASSSS). This is a huge workload placed on what is largely a population of volunteers, already committed with veteran support work. It diverts scarce volunteer resources away from front-line support. In many cases, the Inquiries are the result of knee-jerk political decisions. These Inquiries are supported by high-salaried staff and have deadlines to meet their report delivery times after assessing evidence. It has become the norm to expect volunteers to drop everything and respond to the need for considered, relevant input from organisations at the front-line, delivering services and with an intimate knowledge of the veteran community. This expectation on volunteers to do heavy lifting to meet others' timetables shows a degree of arrogance and little appreciation of the workload and the environment in which ESO work.

The PC's releasing of a 700 page report just before Christmas and expecting responses by 11 Feb is consistent with this lack of appreciation. DFWA considered the option of not responding but when one reads the draft there are several areas where, we believe, the PC has shown it does not understand the issues and the military cultural mind-set impacting on the efficient and effective veteran services delivery. Not commenting increases the risk of less than optimum recommendations being presented to and possibly accepted by Government.

DFWA is grateful for the extension to 13 March 2019 for receipt of our response to the draft Report, however even with the extension there are several areas where we have not responded or have not responded as fully as we would have preferred. This applies particularly where the report has requested further information or comment.

DFWA has contributed to the response submitted by ADSO. The ADSO response is, in the main, directed at policy level with response at detail level being addressed by individual ADSO member submissions. DFWA generally supports the response submitted by ADSO and has indicated specific areas where we amplify aspects of the ADSO response.

DFWA SUBMISSION

This submission is in three parts.

- Part 1. Executive Summary.
- Part 2. General Response to the Draft Report
- Part 3. DFWA Responses to Draft Report Recommendations

Annex A. Examples of Issues with Industry Best Practice Workers Compensation Insurers

PART 1 - EXECUTIVE SUMMARY

GENERAL

1 **Support**. DFWA commends the PC 700 page report coverage of the vast area of Veteran support. It is probably the most comprehensive report produced to date. DFWA supports most of the draft findings and draft recommendations (either in part or in whole) made in the draft Report. These are presented in tabular form at Part 3.

2 **The Challenge**. DFWA believes the biggest challenge to the PC in this process has been the lack of data and hard evidence to judge efficiency and effectiveness of practices and performance in order to come up with definite findings and recommendations, though there is a lot of anecdotal evidence to point to changes in specific directions and to highlight the need for further information. This is shown in the PC requests for further information.

3 **DFWA Response**. As a result, many of the draft recommendations have been made, based on incomplete and/or challengeable data and sometimes assumptions which can be contested. DFWA response to this draft Report has addressed these areas as much as possible in the time available and suggested possible changes recommendations for PC consideration. Some recommendations are "strengthened", where DFWA believes the changes do not go far enough. Some suggest a modified approach that would achieve the intent more effectively or efficiently. Some are opposed.

4 **Main Issues**. The draft Report recommends several large scale changes, affecting key many stakeholders. These are:

a **Adoption of an Insurance Industry Best Practice Workers Compensation Regime**. A Vetcare adaptation of Comcare if you like:

i This recommendation is made without any hard evidence or data from independent source demonstrating that a Vetcare approach would provide better outcomes than current, and the demonstrably improving DVA. **The NSW Parliamentary Inquiry into Workers Compensation dated 2017,** clearly shows that "best practice worker compensation insurers" have the same, if not more, deficiencies than DVA. (Excerpts from the Inquiry are shown at Annex A.) There is no evidence that they are better.

ii There are related recommendations where the changes to current Veteran support and benefits are proposed in order to make Veteran support fit into the workers compensation model, i.e., shaving of the edges of the square peg in order to fit into the round hole. It is noted that the "round hole" of "best practice workers compensation" does not seem as good as the draft Report assumes. (See Annex A.)

iii Changes proposed seem to be based on an overriding principle of "worker compensation model centric" rather than "veteran centric". For instance directors of the proposed Veteran should rightly have worker compensation experience. Veteran centric aspect is given a lip service with directors requiring an "understanding" which could be based on a great uncle's war experience.

b **Movement of the Veteran Support Function under Defence**. This is based largely on the assumption that it would make Defence more accountable for wellbeing of Veterans until they die. While the Report acknowledges conflicting objectives of Defence and a Veteran Support Organisation (DVA), it does not convincingly address how Veteran support will get

the attention it needs from an organisation whose total reason for being is the defence and continued existence of Australia as a sovereign nation.

c **Establishment of a "Premium" to be Paid by Defence**. This is a gross measure which does not provide the granularity required to "*ensure that Defence **and Government** are cognisant of the long-term costs of its actions on serving personnel"* The fact is that many liabilities are incurred due to government decision (action) as the ultimate "Employer", not Defence decisions (action). Where would the premium come from to cover liabilities due to the current commitment by the government to the longest war the ADF has ever been involved in? This was a government decision, not a Defence decision. This dichotomy of Employers situation does not fit in with civilian models of fully-funded schemes. There is also no evidence to suggest that "premium" incentives are as or more, effective as claimed in the civilian sector (See Annex A) than that currently being achieved by the ADF in WHS measures.

5 **Change Management**. Some of the key areas that need change have been identified. There are big changes recommended, involving several stakeholders. Change requires governance and resources to implement and provide continuity of service during change, more so given the challenging timescales proposed. Change Management and its governance has not been addressed in the Draft Report. Without Change Management, and appropriate governance, the report runs the risk of ending up as shelfware, the fate of many previous reports.

6 The big issue is that many changes proposed lack hard data to justify and are very hazy concerning resources required and savings, if any, to be made. DFWA believes that a more gradual approach should be adopted, especially to gather necessary data on performance, outcomes and resources to justify change and then implement as part of a properly managed Change Management Projects all within the auspices of a formal Continual Improvement Programme based on the principles and industry best practice. This would build on and formalise the current Veteran Centric Reforms of DVA and would be controlled under the proposed Veterans Policy Board.

SPECIFIC ISSUES

7 **Overarching Objective.** DFWA supports the overarching objective concerning veterans and their families, made at Recommendation 4.1, but has reservations about elements of the rest of the recommendation where the "families**"** element has been omitted and another area where the interpretation of affordability and financial sustainability is challenged.

8 Unique Nature of Military Service and Impact on Veteran Families. Some recognition of the Unique Nature of Military Service is given in the draft report. However, there are disconnects in that the consequences of military service for veterans and families are not recognised/identified in discussions in several areas in the report. This has led to assumptions and conclusions and ultimately draft Recommendations based on this incomplete understanding. DFWA has attempted to identify all of these to assist the PC and, where appropriate suggested changes to recommendations.

9 Quantification of Resources. Throughout the report, the need for but lack of data, statistics and information in general, has been recognised and resulted in requests for further information. DFWA supports this in order to identify shortcomings, costs and to baseline performance so that effects of any changes can be measured. DFWA believes more action is required to identify sources of information and ensure continued provision.

10 **Best Practice Workers Compensation**. DFWA supports many of the workers compensation related proposals to improve efficiency and effectiveness in the delivery of veteran services. DFWA questions the wholesale embracement of the insurance industry best practice where it fails to take into account the difference between ADF work environment (war and simulating war) and that of an average worker or ADF employed in-barracks.

11 DFWA questions whether Defence is the Employer when decisions affecting cost of veteran wellbeing liabilities are made not by Defence but by the Government. The report has not justified the assumption that Defence is the Employer. This has consequent effects on draft recommendations of fully funded schemes, premiums and several other areas.

12 **Transition.** DFWA supports the need for a single organisation to be responsible for the management of transition and the co-ordination of the various stakeholders involved. DFWA believes that the issue of Reserve service needs to be addressed in this umbrella as there is no longer a clear single Transition. There may be several semi-transitions as members change their nature of service within the ADF. This has complex considerations regarding healthcare, wellbeing, veteran benefits and superannuation. All very complex and coming together at the individual level, Complexities need resolution, and this involves several different stakeholders. No current stakeholder has much visibility outside their own stove pipe. Defence has no experience in the end result, i.e., transition to civilian life this. DFWA recommends this function should be within DVA or its successor, as they have responsibility until death.

13 Healthcare – The Compensation Package. There are several references in the draft report questioning the "generosity "of some benefits and in the context of "normalising" the square-peg Veteran benefits to fit into the "best practices workers compensation model".

14 DFWA opposes the repeated use of "generosity" in the report as it can be perceived by some stakeholders as a criticism and something to be corrected. This may not be the intent of the Report, but its repetition detracts from consideration of some points the report is attempting to make.

15 DFWA was of the impression that the TOR was looking at efficiency and effectiveness in service delivery and taking lessons from the insurance industry. Instead, the PC has used the TOR to question some benefits, based presumably on the effectiveness of them and affordability. There are no statistics or hard evidence provided regarding "effectiveness" of these in the draft Report, or criteria by which effectiveness is to be measured. Nor are there statistics regarding "affordability", except some where the report indicates the amounts involved are relatively small. There is a lot about, "it's not done elsewhere" but no attempt to examine what "veteran centric" might mean in this context. DFWA challenges several of the Report findings.

16 Commonwealth Superannuation Corporation (CSC). DFWA appreciates that the Report does raise concerns about CSC and the need for greater interworking and highlighting the need for future consideration. If veteran "wellbeing" is a key objective, then the lack of a rehabilitation element in CSC Invalidity Benefits and the clear financial incentives of the CSC system to stay an Invalid, should be acknowledged and addressed. DFWA does not believe the Report goes far enough in identifying some short-term improvements that could have an immediate beneficial effect for veterans or establishing a mechanism for providing the necessary governance in this area, e.g., common data dictionaries between Defence, CSA and DVA to facilitate information exchange between the stovepipe organisations' IT systems.

17 Preventing Injury and Illness. As stated earlier, DFWA questions the use of a gross measure of a “premium” to be levied on Defence to improve their performance regarding injury and illness prevention, reporting and rehabilitation. This is based on a false assumption that the chaotic work environment of the ADF is the same as that of the normal workers very controllable environment. There is a total disregard of the different nature of military service in attempts to make it fit into the round-hole of the worker compensation model. Instead, DFWA supports greater granularity (more detailed break-down) in reporting so that the costs of decisions at both Defence level and the Government level can be understood better.

18 ESOs and Advocacy. In what scant data is provided to determine costs in current DVA claims processing, there is no accounting for time spent by ESO in supporting claim preparation, appeals, i.e., advocacy work, let alone hours of welfare work essential to veteran and veteran family wellbeing. It is accepted that the results of the VASSSS, may shed light on this. There are likely to be increased costs involved if there is more “professionalization” recommended and the facilitation of more salaried positions. The lobbying work of ESO in representing veteran interests, and in making submissions to Inquiries such as these, does not rate a mention. With the changing demographic of ESO membership and support staff, DFWA believes there is a need to provide funding to do the work that volunteers will no longer be able to do and to support the work ESO do in representing veteran andveteran family interests.

19 **Governance and Funding.** DFWA supports the intent behind the governance changes. Element of this were suggested in our original submission, e.g., combining the Defence Personnel and Veteran Affairs ministerial role formally. Identifies some issues with the funding model. However, as indicated, DFWA believes the conflicting objectives of the two elements will mean that Veteran Support will never be a priority objective under Defence. Accordingly, DFWA has proposed a different governance model for the OC to consider.

DFWA RESPONSE TO DRAFT REPORT RECOMMENDATIONS

20 A summary of DFWA responses to each draft Recommendation is included in a table at Part 3.

PART 2 - GENERAL RESPONSE TO DRAFT REPORT

21 DFWA supports most of the draft findings and recommendations (either in part or in whole) made in the draft Report, however there are some issues where DFWA believes some revision to the draft Report is required. Some of these relate strictly to the draft Findings and are relatively straight forward. In those cases, where practicable, DFWA has suggested possible re-wording of recommendations for consideration by the PC. Other issues are more complex and relate to the PC approach and reasoning shown throughout the Report. Some of these are challenged. Areas addressed are:

a Overarching Objective.

b Unique Nature of Military Service and Impact on Veteran Families.

c Quantification of Resources.

d Best Practice Workers Compensation.

e Transition.

f Healthcare – The Compensation Package.

g Commonwealth Superannuation Corporation (CSC).

h Preventing Injury and Illness.

i ESOs and Advocacy.

j Governance and Funding.

OVERARCHING OBJECTIVE

22 DFWA supports the overarching objective made at Recommendation 4.1, i.e.*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.*

23 However DFWA has concerns about the wording of a sub-objective and the interpretation of the principles as reflected in much of the discussion in the draft Report. As it is also recommended that the *objectives and underlying principles of the veteran support system should be set out in the relevant legislation,* DFWA has serious reservations about the current wording as it places clear restrictions on many aspects of current beneficial legislation.

24 **Issue 1**. It is stated that the agreed overarching objective should be achieved by, in part, *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**:***

a DFWA believes the "*wellbeing of veterans and their families*" is not just about the view of workers compensation referred to in the draft Report, it is about veteran and veteran family support needed due to the incapacity caused by deliberate government decision that put the veteran in harm's way. The suffering experienced by families and the support families provide, to veterans incapacitated due to service caused injury and illness should be recognised and the family supported, as is currently the case with some family benefits. This is broader concept of support than the concept of "workers compensation" advocated throughout the draft report.

b DFWA Suggested rewording is "*providing adequate and appropriate support for veterans **and their families** for pain and suffering and lost income, and their families for their loss (if the veteran dies) from a service-related injury and illness*.

25 **Issue 2.** It is stated that a principle that should underpin a future system is *veteran centric (including recognising the unique needs of veterans resulting from military service).*

a Families make a huge contribution to the support of Veterans during service and when incapacitated due to service to the Nation. There is an obligation to recognise this. DFWA Suggested rewording is "*recognising the unique needs of veterans **and their families** resulting from the veterans' military service*."

26 **Issue 3.** It is stated that a principle that should underpin a future system is *financial sustainability and affordability*.

a DFWA contends that these are value judgements made at political level and are made when the government decides to have a professional volunteer ADF and when the government commits the ADF to operations. DFWA believes that affordability and sustainability are insurance industry principles for workers compensation and are directed at the continued existence and profit making of insurance companies. They may also be suitable for agencies such as Comcare which provide cover for normal workers in normal working environment. The ADF operational environment is not a normal working environment. See Response at Best Practice Workers Compensation - Affordability and Financial Sustainability.

> A government that accepts the cheapest tender for military systems or a reduced number of systems on the grounds of the principle of budget Affordability, may later commit the ADF to operations where there is an increased risk of wounding and death to Veterans due to earlier Affordability based decisions.
>
> **This is not a Defence decision. It is a Government decision.**
>
> A government then tell Veterans that the support services needed to restore them to "as-new" or compensate them for incapacity need to be reduced as a result of assessment on Affordability grounds as that is a best practice principle of the workers compensation insurance industry.
>
> **There is something wrong with this logic.**
>
> The Government should guarantee the full-funding as it was responsible for its decision.

Box 1 – Implied Affordability

b Suggested rewording should include words to the effect of ***Implied f**inancial sustainability and affordability **of the veteran support system by the government in maintaining the ADF and committing it to operations**.*

UNIQUE NATURE OF MILITARY SERVICE AND IMPACT ON VETERAN FAMILIES

27 **Unique Nature of Military Service.** DFWA initial submission and other submissions stressed the characteristics and effects of the Unique Nature of Military Service, having a life-long enduring effect in varying degrees on veterans and their families. While many other occupations also involve personal danger and trauma, military service alone subjects members to loss of legal rights e.g., employee rights, enjoyed by all other Australians and additional layers of military and international law, all with penal sanctions.

28 While, in many parts of the report, the PC acknowledges the unique nature, in postulating in other areas, the draft report discounts it. The report is peppered with, ***"yes military service is unique, BUT ….."*** Then focuses on commonality with others, it is not that unique, and those dangers are addressed in high rate of pay, and promotes the idea that because of the partial "commonality", veteran "compensation arrangements" should be similar, in principle to that of other workers. Unfortunately, the latter discussion then goes further than promoting best business practices, but also questions the "generosity" of benefits.

29 **Comparisons with Other Workers – Emergency Services.** The draft Report states: *However, there is a question about the extent to which the unique features and impacts of military service require special or differentiated supports and services. Many other occupations are distinctive and unique in their own way — though not as markedly as the military — but these differences do not necessitate special arrangements.* ***For example, emergency services*** *personnel who suffer from repeated exposure to trauma or violence are treated through mainstream health and social support systems, including mainstream compensation and rehabilitation schemes. The higher rates of trauma and injury in these vocations mean that these workers access the services at a greater rate on average than workers in many other sectors, but it does not necessitate a different system.* The DFWA response[1] to the implied question is as follows:

a Emergency Service workers can say no at any time and all have Employee Rights:

b Current ADF ME deployments are typically 4 to 9 months. With the type of warfare now being waged, in some locations, there is the continuing risk of a local soldier working with the ADF and living "within the wire", going "rogue" and killing ADF members. This means that 24/7, for many months without a break, there is unrelenting risk and stress. This is experienced by the veteran and his or her family back home. The family is often without extended family support.

c Emergency service workers can get a break at end of shift or period of work. They can switch off, giving at least some respite and relief from stress for themselves and family,

d Emergency service workers can go home to family or friends, away from a place of danger at the end of a shift and don't have the stress.

e Emergency service workers can go to their own choice of doctors, get treatment in in mainstream, during breaks from work without their Employer being informed.

f Emergency Service workers can take a "sickie" without seeing a doctor.

g Emergency Service workers can see a doctor of their choice and get an "extended sickie".

[1] DFWA acknowledges the selfless service, dangers and traumas experienced by Emergency Service workers.

h Emergency service workers can access mainstream medical services while working in their job. ADF members at sea or land deployed cannot. Many ADF members do not have Medicare cards.

30 The UK experience whereby serving UK military members received medical attention through the regional National Health Service Trusts resulted in serving soldiers receiving inequitable treatment depending on the location of posting and the policies of the servicing regional NHS Trust. The Trusts did not all offer the same range of services, had different waiting times, treatments offered and availability of specialists. Also, military members went to bottom of waiting lists when posted to a new location, as did their families. This disadvantage was one of the main reasons the UK introduced the UK Armed Forces Covenant to obtain buy in by all service providers not to discriminate against the military and to recognise the Unique Nature of Military Service. The Mainstream medical services in the Australian States all differ in similar respect to UK regional NHS Trusts. It is noted that the "no disadvantage" principle included in the UK Military Covenant has not been included in the first version of the legislation introducing an Australian Covenant, so families of ADF members transferred interstate face dropping to the bottom of health waiting lists, and if a practising professional, having to re-register with gaining State-based professional body and start as a probationer etc.

31 The emergency services organisations still have meaningful "desk" jobs where adversely affected workers can be employed for temporary or long term. For an ADF member, there is the knowledge that reporting any mental health issues, for example, means almost immediate removal from current job and the supportive team environment. There is the risk of losing a security clearance and being medically discharged. There is only a limited chance of movement into a less stressful, but meaningful job in the ADF, e.g., administration, support or training, during treatment, because those jobs are virtually non-existent having been lost in efficiency drives[2].

32 **Return to Work. (Ref PC Report Fig 6.5**) It is unreasonable to compare civilian return to work and ADF return to work. As stated by JHC, return to work is when an ADF member can fulfil his/her 'full' duties. The ADF does not have the flexibility of civilian firms to adjust workplaces and duties to allow a return to work. This was not mentioned in the Report and will explain the delta between the two figures. It is yet another example of the report not identifying the uniqueness of military service.

33 **Equating Military "Employment" with Public Servant Employment.** Some submissions to the Inquiry argue that the Unique Nature of Military Service is an unsubstantiated emotional argument used to get veterans unjustified better treatment than public servants who do virtually the same job. After all, they are often employed side-by-side under same conditions. Only a few deploy to warlike areas. Many do not. Many of those that do, do so voluntarily anyway so should not get better treatment. They should all be covered under SCRA as are public servants. Elements of this reasoning seemed to have gained traction in some of the discussion in the draft Report. They therefore have to be challenged:

a **Unique Nature – An Emotional Argument**. DFWA does not contest that there is an element of emotion regarding consideration of the Unique Nature of Military Service. (Rightly so. It is a huge commitment.) However, that emotion is based on cold hard facts of those who suffer death and injury due to being put in dangerous situations as a result of

[2] Most positions which were suitable to support respite or rehabilitation no longer exist. Hundreds of uniformed positions have been "civilianised" or "contractorised" out, in pursuit of ADF efficiency and effectiveness edicts favoured by economic rationalists driving budget cuts. Arguments that they were needed for respite, a chance on normality or a routine job to allow rehabilitation fell on deaf ears.

government decision. All ADF members are liable for this and have signed up for it. It is a huge personal commitment and should not be dismissed as just emotional.

b **Same Job**. This is a superficial comparison. In extreme, no public servant working with an ADF member in the same office can be required to drop everything and deploy to a war zone the next day and not be able to refuse. It does not happen often, or to many, but it does happen. In day to day work, the public servant's hours of work during a week are defined to the last minute. The ADF member's is not. An ADF member can be required to work longer than normal hours with no notice and with no ability to refuse. This happens frequently, and is regarded as part of normal military service by the member and family. A public servant can refuse with no repercussion.

c **Same Conditions**. An ADF member can be administratively discharged by a chain of command decision, in the interests of the service. High Court decisions back this up. There is no "employee rights" to challenge or have this decision overturned as is available to public servants. There are numerous incidents per year of this.

d **Many Do Not Deploy**. All ADF members are liable to deploy. Many do, many do not. Many deploy many times. Many apply and are refused due to needs of the service at the time. The needs of the service are paramount.

e **Many Volunteer for Deployment**. This is true. So what? Part of this is due to the inculcation of a culture from initial training and reinforced throughout service and is part of the Unique Nature of Military Service. Conscripts and volunteers served side by side in Vietnam. The value and sacrifice of the service is the same.

f **SCRA**. SCRA has been found deficient in some areas, hence the introduction of MRCA. Parts of the Report contend that, in spite of recommendations of various reports to replace all Acts with just one Act, and benefit from all the efficiencies that would flow, it has not happened due to the lobbying and political influence of veteran organisations playing on emotions. There is another side to that. DFWA contends that here has also been resistance to replacing SCRA with MRCA by elements within the public service opposed to beneficial aspects of veteran legislation not available to public servants. It is time to move on.

VALUE JUDGEMENT – GENEROSITY.

34 DFWA opposes the repeated use of "generosity" in the report as it can be perceived by some stakeholders as a criticism and something to be corrected. This may not be the intent of the Report. 20 mentions of generosity/generous in the Report can, for some, distract from objective consideration of some of the points the report is attempting to make.

35 The draft Report seems to accept any comment that reinforces the view of veteran support being 'generous', rather than assessing the situation objectively and giving recognition to a different view. This, in spite of the PC report quoting the then PM Bob Hawke who said that the Australian Government "*firmly believes that we should be **generous** in our treatment to those who have suffered disabilities because of their participation in war and in the treatment of the widows and orphans of those who have died as result of war service*" . Its repeated use in the draft Report creates the impression "generous" is something not so good and anything identified as "generous" is to be challenged and therefore a target for cost-cutting. The PC should be aware that ":generous" was a repeated mantra by the government when defending reductions to conditions of service to ADF Members in exchange for a pay increase in the 2013 Workplace Remuneration Arrangement.[3]

[3] BOHICA-not!

36 **Looking at Pay?** The Report attempts to discount 'separate or more generous compensation and support of veterans' because ADF members are well remunerated. *One argument for veterans receiving higher levels, of or easier access to, support is the often arduous and risky nature of service. However, the military already provides remuneration and allowances that are directly tied to the risks and onerous conditions and the Government recognises these aspects through recognition programs (chapter 2). It is therefore not clear cut that this aspect of military service itself warrants separate and/or more generous compensation and support arrangements for veterans.* DFWA contends that this is a completely specious argument. An unqualified, unquantified statement that military remuneration and allowances are directly applied to risks and onerous conditions is inappropriate unless compared with all the pay and entitlements to similar professions. The logic that benefits for service–caused incapacity should be discounted because the pay was good does not stand up to scrutiny.

37 **Comparison of Practices or Benefits?** Further, this is not a comparison of best practices in delivering worker compensation services. Coupled with other focusses on affordability in the report, it is perceived as comparison of benefits and a cost cutting venture. However, if judgements of generosity are to be made, then it should compare like with like as far as possible. There are many ex-ADF working as contractors in the ME in varying conditions in the same operational environment. While some are in NGO, others are working in close protection, security and logistics for private companies. That would be a far better assessment of generosity, if indeed that is part of the report. DFWA has no visibility of current contracts, but provides the following dated information from a former UK company employee, involved in similar "work", except, unlike ADF, the employee can quit at any time

SYNOPSIS OF CONTRACT – CIRCA 2008.

Role: Civilian working for a commercial company based in UK providing support for deployed UK supplied equipment.

Requirement: Being on standby for about 18 months to deploy with 8, 24 hrs or 1 weeks notice to fly to Middle East operational areas supporting deployed UK/NATO force elements. Maximum each deployment 2 weeks, maximum cumulated deployment 12 weeks pa. Additional negotiable. 3 months' notice to terminate contract (Financial Penalties either party if less).

Remuneration: Pay incremented +50%, 75% and 100% depending on standby notice. Incremented 150% on deployment.

Medical – Compensation:

If incapacitated from such deployments and affected employment:

- Continue on current pay for up to 2 years in current employment,
- Continued private health cover for life, including rehab, carers' allowance, and nursing home.
- After 2 years of not being able to work or assessment of permanent impairment, pensioned off on 80% pay (with ability to continue paying into pension fund until retirement age.)
- After retirement age continued pension as per individual arrangements.
- Continued private health care cover for life, plus a lump sum based on extent of incapacity. Option to pay the lump sums and pensions into a trust, based on health directive.
- Up to 3 years to claim for incapacities.
- Appeal mechanism. Company, Arbitration, Civil Law.
- Some other employees had provision for continued private boarding school education.

At any stage, employee could refuse deployment or demand to leave operational area. There were financial penalties for this involving re-cooping up to 6 months of previously paid allowances.

Box 2 – Deployable Civilian Contract – Example

38 The Report focusses on some common aspects to justify minimising the main differences, losing basic human "rights" and being subject to additional legal systems all within a working environment based on "normalising" killing, violence, trauma - situations experienced by few other occupations.

39 Governments have introduced special arrangements to support those who were engaged in conflict. This is a recognition of the Unique Nature of Military Service. The concern is that the PC report is attempting to justify normalising veteran support to what is available to the wider Australian community and best practice which is contrary to the intent of many previous governments.

40 DFWA contends that the Unique Nature of Military Service does justify 'special or differentiated supports and services.'

QUANTIFICATION OF RESOURCES.

STATISTICS

41 **The Benefits.** This 700 page report highlights 18 areas where veterans will benefit from reforms. The benefits are at best generic and barely quantifiable. DFWA agrees that data reporting and evidenced based statistics gathering should commence immediately.

42 DFWA acknowledges that there is a worrying lack of data in the veteran sphere and supports action to improve this situation so problem areas can be readily identified and action taken to rectify them. The lack of data is not only within DVA and Defence but also within the states as they are responsible for providing many services to veterans and have no idea of the numbers of veterans they are supporting.

43 The PC report states:

a Little is known about Australia's total veteran population. The Department of Veterans' Affairs recently estimated that there are about 640 000 living veterans (including reservists).

*b There is a lack of robust data and evidence on many crucial aspects of the veteran support system. This impedes the design and delivery of effective supports for veterans and their families. (**Draft finding 16.1)***

44 It is mentioned in the report (under demographics) **Draft Recommendations 16.1 and 16.2** that not all veterans are supported or in fact visible to DVA. Approximately 80% of personnel leave the ADF without being DVA clients and 'disappear' into the wider Australian population. This will improve with the issue of a White Card to all those transitioning. The issue is further complicated by the fact that almost all the services used by these 'lost' veterans are provided by the states, such as health, education, homelessness, incarceration. There needs to be a joint Commonwealth/State effort to try to identify these veterans as they use the services and then do an audit on them to see if they are entitled to any DVA support.

45 **Report Not Supportive of Actions to Obtain Statistics.** Box 16.5 discusses veterans that are not known to DVA but effectively dismisses the inclusion of a veteran's question in the census. To properly target activities statistics are essential. This was mentioned as a key deficiency in our original submission and suggested a way ahead to address this but it will require action from the Federal Government as the states will need to be involved.The PC did not consider other options, even though they were included in submissions:

a States be required to ask if a person was a veteran when using their services,

b Use the veterans card available to all veterans and when veterans applied they could be assessed to see if they were entitled to any DVA benefits, and

c Use of the Veteran Ministers Round Table (forum of Federal and states' minister for Veterans) to adopt a co-ordinated approach to statistics.

QUANTIFYING RESOURCES

46 There appears to be no effort to quantify the resources required to implement the draft Report recommendations and show that in fact if the recommendations are implemented they will be to the benefit of veterans. For example:

a Placing veteran affairs in any form into Department of Defence will mean they will have to compete for funding and resources with the war fighters and the priority must go to the war fighters. This may well result in a degradation of support to veterans and is not supported.

b The report recommend a Veterans Service Commission, a Veterans Policy Group, Veterans Advisory Council and a Joint Transition Command but makes no effort to explain how they will be resourced (except to levy a premium of Defence), or how it will improve support to veterans.

c Splitting the responsibilities for veteran support from one organisation to multiple organisations is resource expensive and encourages dysfunction. To make these recommendations more meaningful a comparison of costs between the extant system and the new one would be appropriate however by splitting DVA into four must generate additional administrative overheads.

d The paper acknowledges that resourcing of a Joint Transition Command will be required but gives no indication as to where it may come from or what is needed in resources, funds and infrastructure. It is noted that there is a recommendation that a Joint Transition Command tap into the ESO network but as stated earlier, ESOs are volunteer organisation and to have a paid organisation to attempt to dictate issues to volunteers is not conducive to good working relationships.

e There is a recommendation to do away with the Gold Card as it is 'not fit for purpose'. There has been no attempt to quantify the savings for this and taking this action may generate more pain than gain. The cost assertions are questioned:

i Every Australian is entitled to health care through the public health system and older qualifying Australians gain access to the Commonwealth Seniors Healthcare Card (CSHC).

ii Use of a Gold Card may just mean a veteran can get his/her care earlier without having to go on wait lists but overall if analysed (there is no evidence of analysis) the costs would not be a huge differentiation in costs between treatment through the public health system and a Gold Card after all it is the same doctors and hospitals.

iii Furthermore if an Australian has a disability they may well be entitled to support under NDIS which will give them access to some of the additional services available to a Gold Card holder.

iv **Box 5** defined a Gold Card holder is entitled to 'more pharmaceuticals and more GPs but have not attempted to define the delta. And if they do get a little bit more is that not appropriate given the unique nature of Military Service? They have served their country in a way other Australians have not.

47 DFWA is concerned that the PC had not quantified the resources required to implement their recommendations. They confirmed this in the draft Report at 17.3 "While *the Commission has not quantified the benefits of its reforms, they are likely to be significant and across multiple domains (table 17.5)".* It is also noted that at Information Request 13.1 the PC is seeking information on costs and benefits of their Draft Recommendation 13.4 and 13.5.

a How can a person possibly comment on the recommendations if this is the case? Some may be so prohibitively expensive or inefficient they simply will not be acted on.

b How can a veteran assess whether a subjective, un quantified recommendation, will actually improve his lot?

DATA AND EVIDENCE

48 The report makes numerous mentions of DVA maintaining better statistics on their activities. This is strongly supported as the statistics will enable DVA to focus on areas that need addressing to improve services to veterans. This is also covered in **Draft Recommendation 9.3** where if DVA identifies excessive error rates in an area then all claims done by that area should be reviewed.

BRINGING IT ALL TOGETHER

49 **The Big Gap**. The draft report addresses numerous areas where data is lacking especially regarding effectiveness, outcomes and costs. One high level mention is made at **Information Request 12.1**. *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?* There are several observations on this:

a There are significant benefits, such as avoiding the harm done to Veterans by the delays and costs incurred due to lack of appropriate and quick information sharing in both determining claims and managing offsets. This has been recognised in numerous reports and examples raised in this report.

b As it is an area where no organisation has responsibility to manage the interface, there is no organisation able to address the issue, define performance, develop metrics, collect data etc to quantify benefits and costs.

c At present, the area is managed solely on a goodwill basis of current managers, prompted only by the political imperative. This is not a satisfactory or enduring solution. A Veteran Services Commission, as proposed, would not address this issue.

The Report does not address this gap or identify a means to address it. See DFWA proposal at Commonwealth Superannuation Corporation.

CONTINUAL IMPROVEMENT PROGRAMME (CIP)

50 In DFWA original submission, we suggested adopting a formal ongoing improvement programme, building on the current Veteran Centric Reform. Such a programme requires gathering and analysis of data, review and introducing improvements to processes, services and products.

51 As previously stated:

- *DFWA suggests that a formal CIP[4] approach to implementing change would provide more effective services and service delivery for Veterans and would facilitate introduction of more efficient delivery of services while maintaining continuity of services to Veterans.*
- *CIP is generally defined as an ongoing effort to improve products, services, or processes. It is accepted business best practice and there are several recognised methodologies supporting its implementation by organisations seeking to survive and thrive in an ever-changing world*

[4] In DFWA original submission CIP was referred to as Continuous Process Improvement programme. The nomenclature here has been updated to CIP, to reflect changes in nomenclature by International Standards Organisation to these business best practices.

where demands for new products and services and more efficient delivery mechanisms are needed to contain costs.

- ***DFWA Suggestion**. DFWA suggests that the current VCR is an embryonic CIP mechanism that has shown success and could be grown into a fully-fledged ongoing CIP programme, supported by Legislation and appropriate resourcing.*

52 **DFWA recommends** introducing a formal CIP to bring together the various calls for gathering of data, measuring effectiveness, reviewing situation and outcomes of changes and provide the necessary governance and funding for this. A proposed structure is shown in the Governance and Funding section of this Response.

BEST PRACTICE WORKERS COMPENSATION

53 DFWA supports the majority of the workers compensation best practice recommendations made in the report but challenges the applicability and justification of some quite strongly.

54 Absence of Comparative Data. DVA in recent times have been conducting surveys and gathering metrics on processing times, performance and customer satisfaction. Since VCR commenced there have been marked improvements. **There have been no similar metrics provided in the Report regarding the Workers Compensation Industry performance against which to compare the performance of DVA.** It is accepted that there would be difficulties with this due to different approaches to payments regarding "stabilised" conditions, and current lack of metrics on effectiveness of DVA rehabilitation, however initial comparisons regarding customer satisfaction and claim completion times could be made. Any large scale changes as proposed need to be justified by hard statistics of comparative performance by independent assessors. They would also be needed to provide a baseline against which the success or otherwise of changes can be assessed.

55 **NSW Parliament Inquiry into Workers Compensation.** Excerpts of this Report are at Annex A.

a The report reveals similar problems in best practice workers compensation as have been identified with DVA in this Draft Report. Probably in some cases, worse performance.

b It is ironic that some of the main criticism in the NSW report is from Emergency Service worker representatives regarding mental health issues and suicidality, the very issues which lead to the initiation of the Productivity Report.

c It is noted that the insurers mentioned adversely in some parts of this report, include EML which is cited in the PC Draft Report at least 17 times, advocating for adoption of best practices and which is critical of DVA performance in parts.

Where is the independent fact-based evidence to assert that worker compensation insurance service providers deliver a better performance that DVA?

To proceed with recommendations to change to the worker compensation model without hard evidence of better performance

SOME OBSERVATIONS

56 **Best Practice - Eye of the Beholder**. Legislation dealing compensation for work caused injury varies from state to state and the Commonwealth has separate legislation. One view is that Qld has different system to most other states and is regarded as the best for clients due to its low cost to operate, relatively speedy resolutions and not "capped" as in other States[5]. It does not

[5] The Operation of The Queensland Workers' Compensation Scheme. Report Of The Second Five-Yearly Review Of The Scheme.27 May 2018

need the larger insurance administrative overheads of other states' systems and the creation of Worker Compensation Industry empires. "Capping" reduces risk to affordability and financial sustainment, but is not really favoured by the "worker". There was strong lobbying by the Insurance Industry, for Qld to conform with other states "best Practices" and changes were duly implemented by the Newman government. These were later overturned by the new government and reverted back to the previous legislation. There are clearly diverging views on what constitutes "best practice" and how competing "principles" are managed.

> , the Queensland scheme has the highest proportion of total expenditure directed to claimants and the lowest proportion expended on insurance operations…… I anticipate that it would continue to remain either the lowest or second lowest amongst the State schemes".[6]

57 The Best Practice and Principles are largely derived from the Insurance Council of Australia (ICA) – a service provider perspective.

58 An ICA Principle, "Minimise political involvement[7]" is not stated as a principle in **Recommendation 4.1**, but is a clear consideration in the design of the recommended Veterans Services Commission and board selection, limiting ex-military influence. The report refers to the influence of politics, and the political agitation of veteran groups, as the reasons for the graveyard of many sensible recommendation from numerous previous studies. It is ironic that this Inquiry is a flow on from political agitation.

THE ANSWER IS "INSURANCE INDUSTRY BEST PRACTICE FOR WORKERS COMPENSATION" - NOW WHAT WAS THE QUESTION?

59 The TOR require the PC to consider contemporary best practice of workers compensation. It does not require wholesale adoption of it. Consideration is to be done in the context of challenges faced by Veterans.

60 Throughout, there is a drive towards the Industry model of workers compensation. Areas in the current system which do not comply with the workers compensation "norm" are challenged. Civilians don't get that, it doesn't fit in with the model. Challenge it. Civilians are not treated that generously, challenge that.

61 **Inequitable?** As an example, the draft report (p168) poses: "*it would seem inequitable that a veteran who suffers a particular accident — say loses a limb — should get more compensation for that loss than say .. a construction worker or any other civilian who suffers the same loss*". Presumably this question is based on the principle accepted by the Commission that "equitable means - there should be equal treatment of equal claims"

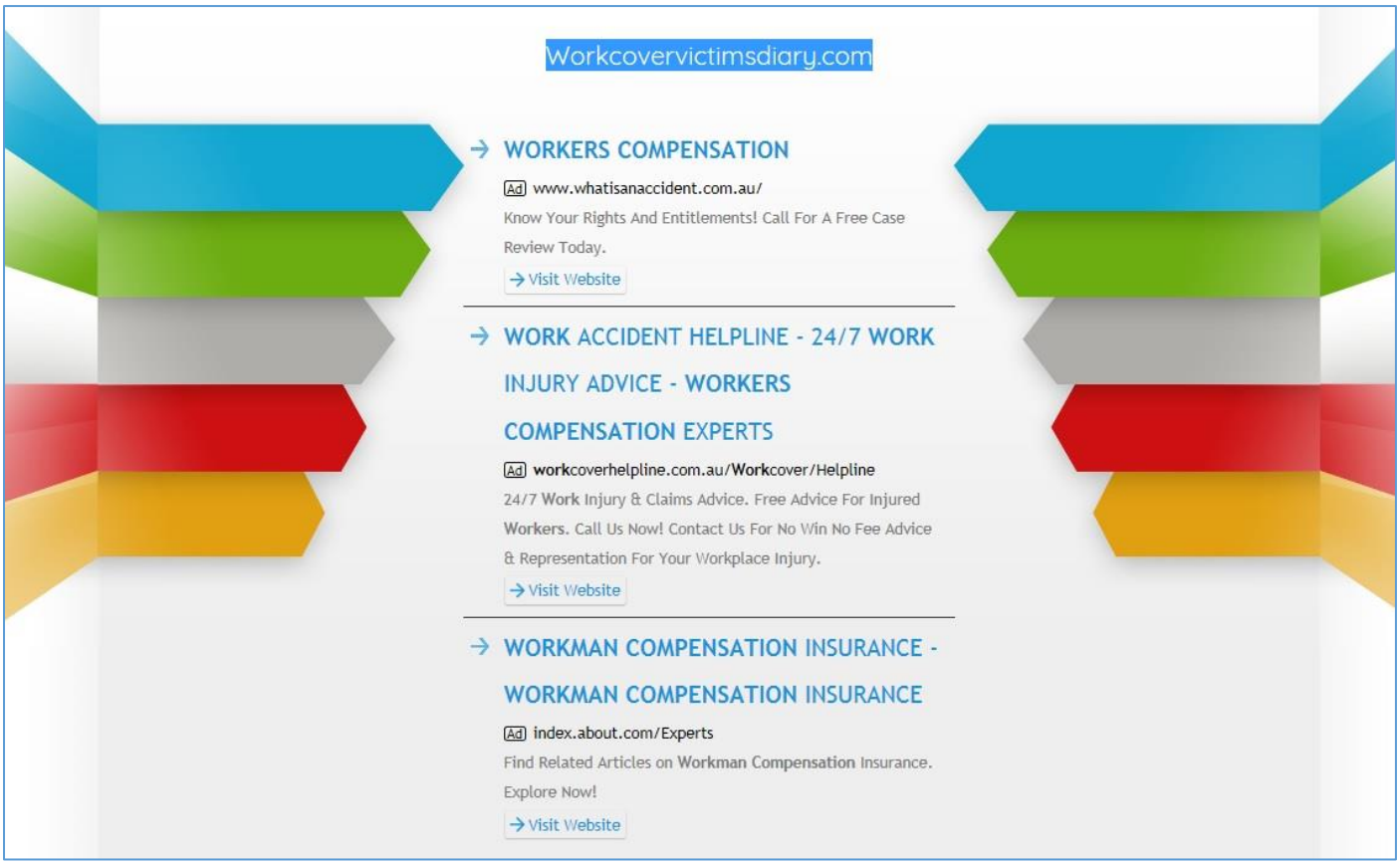
62 DFWA challenges the whole basis of the seemingly innocuous question. This statement begs the question, "*Is the loss of a limb, say just a fingertip, the same economic loss for everyone, a professional violin player vs an economist vs a construction worker, or the same non-economic loss if that person is a social musician*". Clearly, the "inequitable assumption" is wrong, but the thinking is then used as a basis for challenging allegedly generous compensation of veterans compared to other groupings.

63 This reasoning, based on a flawed assumption and totally ignoring the Unique Nature of Military Service, is evident in several areas of the report. This coupled with such principles as *limiting benefits for minor injuries to what is essential*, seems more aimed at arriving at a standard minimum compensation amount to suit the compensation industry needs for predictability and containing costs rather than needing to address Veteran wellness.

[6] Ibid.

[7] Finity Consulting Pty Ltd A Best Practices Workers Compensation Scheme – for ICA dated 21 May 2015

64 **Growth Industry**. The best practice worker compensation insurance industry, brings with it a thriving supporting sub-industry of commercial providers to assist workers with claims and with appeals on a no win – no fee basis. Far more so than the current DVA regime. Adoption of industry best practice increases the likelihood of increasing litigation and expenses for the whole system. There has been no estimate of the costs involved in this area by the adoption of a new model. There are at least 13 sites where such services are advertised. Box 1 includes an example.



Box 1 – Likely Growth Industry Not Costed.

65 **Affordability and Financial Sustainability**. The one principle that is clear is Affordability and/or Financial Sustainability. The push for efficiency and effectiveness are fully supported, as is the need for accountability and establishing and attributing costs to prevention and deficiencies in prevention. DFWA recognises the importance of a wellbeing approach however is concerned with continual reference to 'best practice' of other contemporary schemes particularly in regard to affordability and sustainability. The issue is unequivocal. The government funds the ADF so, if it needs to, it can prosecute wars. It has an enduring responsibility to look after those personnel if they are injured. While the services need to be provided giving best value for money, affordability alone should not be a determinate in how this support is provided.

66 Affordability and Financial sustainability in Veteran Support are different from that in the ordinary Workers Compensation Industry, due to the political dimension, i.e., affordable by taxpayers (p167). Affordability is a political decision made when deciding to have an ADF or commit to war. Financial sustainability and affordability should not be a consideration after the event when support to those who return is being determined. It is the moral obligation of government which committed veterans to operations to provide the support required to rehabilitate the veteran to "as new" and provide compensation where ever complete rehabilitation is not possible. However, that support has to be provided in an efficient and effective manner.

67 The other issue and it is also mentioned later is that the PC has made no effort to review who else is in the marketplace to determine the sustainability of the support of veterans. Other workers compensation schemes, the ongoing roll out of the NDIS and the government age care reforms will all use the same professional expertise (psychiatrists, psychologists, age care workers and occupational therapists) and given the funding freeze of recent years DVA's fees are amongst the lowest, which will prejudice ongoing support to the detriment of veterans. The disappointing aspects that NDIS and the age care reforms are federal government initiatives and professional services are funded to a higher level and as a result veterans have the potential of being disadvantaged.

68 **Efficiency and Effectiveness.** There is an understandable focus on efficiency and effectiveness. These then get tempered with arguments regarding sustainability and affordability and totally ignore the moral obligation of the government to the people they prepare for and send on operations. This "tempering" ignores the "ethical dimension".

69 **Ethical Dimension**. The Australian Nation has seen the effect of a lack of ethics in the recent Hayne's Royal Commission into the Finance Sector. Further, in the management of veteran services by DVA and CSC, there is a requirement placed on both to comply with the Public Governance, Performance and Accountability Act 2013. This Act places a legislated duty on both to govern in a way that promotes "ethical" management. In the draft report, *efficiency/effectiveness* have been mentioned hundreds of times, *sustainable/affordable* have been mentioned scores of times, all as characteristics to aim for in Veteran support. *Ethics or ethical* mentions score six, *moral* five times, but none mentioned in the report in the context of characteristics to aim for in Veteran support. It can be argued that this has been the dimension lacking in the administrative culture which had led to veteran suicides that lead to this Inquiry..

70 The NSW Parliamentary review of civilian best practice workers compensation indicates similar behaviour in some areas that attracted criticism in the Haynes' Royal Commission into the Finance Sector. (See Annex A.) The Draft Report does not address the ethical dimension, but proposes that Veteran Support should adopt the practices of the worker compensation insurance industry. Evidence and specified criteria is required, not just assumptions that it is better.

GENEROSITY

71 The TOR require a look at contemporary best practice in workers compensation. There is no doubt that adoption or adaptation of some elements of best practice could only improve support and parts of the report that address this are supported.

72 However, this, in part has morphed into a look at financial compensation and support provided to veterans and families and there are several calls in the report to justify the apparent generosity to veterans and family, compared with the financial benefits provided to other Australian workers

73 This is not a comparison of best practices in delivering services efficiently and effectively to meet objectives. Coupled with other focusses on affordability, it requires value judgements at the political level and looks more like a cost cutting venture.

74 However, if judgements of generosity are to be made, then it should compare like with like as far as possible and this is addressed in the earlier section at Box 2.

TRANSITION

75 **Joint Transition Command** To suggest there is a need for a Joint Transition Command within Defence is flawed reasoning on two counts.

a **Overkill**. For the 80% currently taking administrative transition the report stated the vast majority transition without issues. Forming a Transition Command is a sledgehammer to crack a nut, and a largely administrative nut mainly requiring a co-ordinated approach. For those taking a medical discharge they are assigned a case office by Defence to ensure that the transfer of care between Defender and DVA is seamless. That is already happening and should continue. **Draft Finding 6.1** does not appear to recognise this fact. A related flaw is the fact there is no attempt to identify the resource costs of this proposal to both Department of Defence and the agency supporting veterans.

b **Within Defence.** The ADF spend a lot of resources training, indoctrinating and maintaining a military culture. The ADF use uniformed people to do this, all have been through the process and have lived the military life and is undertaken by a uniformed organisation. This is logical. The Report recommends that the reverse transition process (re-training, re-orientation) from serving member to civilian, should be done by a uniformed military organisation and culture staffed by serving members who have not transitioned to a civilian (non-government) job and are not in the civilian culture. This is not logical.

ISSUES WITH REPORT REASONING.

76 Reference Draft Report Box 7.10 Why is preparing veterans to reintegrate into civilian life regarded as core business for Defence? How can this possibly be so? Having a force resourced and capable to fight and win conflicts is the core business, not preparing people to transition.

77 The report mentions 'Best Practice' in several areas especially regarding Workers Compensation. The question is where is the 'best practice' that requires an employer to be looking after personnel who have transitioned for a period after their transition when they have left their employ as suggested in the report **(Information Request 7.1)?**.

TRANSITION GOVERNANCE.

78 A properly designed and developed Transition Support function with responsibility of governance of the transition process from within Defence to DVA is supported. The reason the veteran support organisation within DVA should take the lead in transition is that they are responsible for personnel, after transition, for the rest of their lives.

79 Governance should be effected by DVA and co-ordinated with Defence and CSC. It should also better use of ESO (those who have been there, done it and have transitioned), government and private enterprise agencies. There has been a marked reluctance in the past to consult with ESO on Transition, yet it is often ESO that pick up the pieces when grand failures occur.

80 The report recommends that Defence take the lead for Transition **(Draft Recommendation 7.1).** This is flawed. DVA must take the lead as they and CSC (for those on Invalidity Benefits and military superannuants), will be looking after Veterans and their dependents for the rest of their life especially as now a Veteran will be handed a DVA White Card on transition. Defence, DVA and CSC should work in close consultation. Defence will have some significant tasks in relation to transition however DVA need to shape the Transition environment.

81 For the vast majority of personnel who leave the ADF they do so without being DVA clients. The Department of Defence has not been proactive in taking any action to prepare their members to leave other than at the last moment, immediately before transition. As was recommended in the DFWA paper if it was mandated that on an annual basis members were briefed on post ADF support on the induction days then this may well serve the purpose. There is already a mandated requirement to brief personnel on fraud and ethics, EEO and

WHS. Personnel would not remember detail but would be aware there is a significant amount of support and know who to ask to access it.

EMERGING GREATER COMPLEXITY.

82 The PC report did mention Reserves but did not address the complexity that is likely to be introduced with the introduction of the Total Workforce model. This will involve people coming in and out of the ADF at varying times of their life, with potential to serve permanent part –time (combined with part-time civilian employment or just semi-retirement), varying periods of full-time service and possibly even re-joining full-time. Box 9 says a ¼ will continue to serve in the Reserves.

83 This situation begs many questions:

a When does Transition occur?

b Are there several different instances of Transition?

c How will it effect Incapacity payments?

d How will it effect superannuation?

e Where do employees of the Defence Australian Public Service (APS) who are force assigned (and voluntarily come under the Defence Force Discipline Act 1982 and so qualify as "Veterans") and are SERCAT 1, fit into Transition if at all?

84 Decisions will have to be made in regard to:

a The responsibilities of injuries suffered outside the Reserve, but aggravated in the reserve,

b Treatment for injuries suffered outside the reserve but need ongoing treatment or support while in the Reserve, in periods of full-time service. These conditions may not affect the Reservists ability to do their job but may require ongoing monitoring.

c Treatment and ongoing support of injuries incurred while serving full time and the person comes back on the reserve on an occasional basis.

d Continuity of care between varying types of Transition.

85 It is noted that:

a The draft Report at Box 7.10 states; *But awareness that good transition preparation and support contribute to ADF outcomes in terms of recruitment, retention, reputation and reserve service is lagging. Addressing this deficit is a core part of the Commission's proposed approach to veterans' transition.*

b Information request 7.3., *The Commission is seeking further information on the transition needs of members when they leave the Reserves.*

86 It is an understatement, to say the least, that this area is complex and the information to address this is scarce. It is doubtful that Information Request 7.3 will provide any answers definitive enough to come up with any solutions in this Inquiry.

87 Transition Support Function. DFWA has stated reasons for opposing a Transition Command and the recommendation that such functions be undertaken by Defence. However, going into the future, there is a clear need to address the transition complexities, especially related to Reserves and the introduction of the Total Workforce Model, which is still in early stages with many areas not really resolved of how it will work within Defence and the ADF. In this area, the Veteran is within the civilian environment for much of the time and dealing with many issues

with which Defence has limited or no expertise or experience. Dealing with this would be a major distraction from its prime purpose for Defence to address.

88 It is suggested that a recommendation of this report should be that Transition Support should be the responsibility of DVA and that it should address the issues relating to Reserve Service and the well-being of Veterans and families.

89 **Homelessness.** Homelessness has become an issue though when veteran studies have been done it does not seem to be. The data provided by the PC is spurious at best. To say that veterans are about 2% of the population therefore 2% of homelessness are veterans is a nonsense. Maybe the PC should read the following which was a study specifically on veterans homelessness in Queensland https://www.rslqld.org/RSLQLD/files/2a/2ac82c85-2ac4-4f92-80f3-98052c90df23.pdf

HEALTH CARE - THE COMPENSATION PACKAGE

90 Under the key points there is an attempt to compare a veteran with warlike service to a civilian. DFWA contends that it is totally appropriate that a person, who put their life at risk for the country and due to a deliberate considered decision of the government, should get a more beneficial compensation for a service caused injury or illness than someone who had not!

GOLD CARD

91 In the Key Points there is an unqualified statement that a Gold Card is costly to taxpayers. Furthermore, the comments are negative against the Gold Card.

92 **Box 15.2** attempts to show how the Gold Card is costly being more than double that of the average Australian. What was only mentioned in passing is that the older a person gets, the more their health care costs and as a 2/3 of DVA's clients are over 60 – not the average Australian - and of course the costs will be higher. There was no attempt to include this difference in the analysis. The analysis is superficial.

93 There are some disturbing findings and comments in the reports which reflect a lack of understanding of the issues and a bland acceptance of comments made in some of the submissions. An example of this is the comment on the Gold card. The comment was that DVA's health card system '*encourages a view of the system as a contest to be won, with the Gold Card as the prize'. The outcome sought for veterans should be rehabilitation, not monetary settlement. The 'Gold Card' nomenclature utilised by DVA reinforces a negative entitlement culture where success for veterans is the extraction of cash from the government, not their rehabilitation and return to being a productive member of civilian society*.

94 Anyone with a knowledge of the system would know that the Gold Card is a Card that allows medical treatment and is not a method of 'extracting cash' from the Government. Obtaining a Gold Card means that the veteran is spared further battles, form-filling, dealing with bureaucracy and stress, to have other service-caused disabilities recognised and medically supported on the path to rehabilitation and being a productive member of Australian society. It aids rehabilitation. As noted, there are documented examples where Veterans have been put though unnecessary stress to have liability accepted and rated correctly.

95 **Needs Based**. The Gold Card is questioned as not being needs-based, both for Veterans and Widows/Widowers/Accepted Others. DFWA submits that needs-based is the only criterion for justification:

a **Veterans**. The alternative to a Gold Card, seems to be along the lines of a White Card providing treatment only for those conditions which have been accepted as Service-Caused. There is some logic to this, however at some stage where service-caused conditions have accumulated to such an extent, that the costs of continuing to go through

the claims process yet again for further conditions and assessments (and maintaining the bureaucracy) for this, would far exceed likely addition expenditure on additional health costs, especially considering that these costs would inevitably be paid for by the government under Medicare. And going through the claims process, no matter how efficient it may be, always will add stress to the Veteran and adversely affect wellbeing. DFWA believes the current criteria are satisfactory. However, as the report makes clear there is no hard data available to either support the current criteria, but nor is there hard data to change it. DFWA fully supports the gathering and analysis of data and review of performance and outcomes but only part of a Continual Improvement Programme.

b **Widows Etc**. It should be remembered that the overarching object concerns *the wellbeing of veterans and their families.* The reason for a Gold Card to widows of veterans who have died as result of service-caused injury or illness has been a recognition of the on-going support that the widow has made towards the care of that veteran and the loss of income by the veteran and the widow due those injuries or illness. That each situation is different and the effect will differ is recognised. That other worker compensation schemes have no similar benefits is immaterial as no other workers have had an Employer who could require the worker to put their life or limb at risk. It is a simple recognition of the Unique Nature of Military Service.

96 **Draft Finding 15.1, Draft Recommendation 15.1 and Information Request 15.1**. These address the Gold Card issue. The information request asks *for options and benefits and costs of providing the Gold Card to dependents, service pensioners and veterans with qualifying service over 70*. It is not known where this information will come from, but any costs must be offset against what any Australian would receive through the public health care system (including NDIS), and for those on service pensions and over 70 the Commonwealth Seniors Healthcare Card (which interestingly was not even mentioned in the cost comparisons) and a delta identified. The suspicion is that the delta will not be overly large and will be an appropriate recognition of the Unique Nature of Military Service and the service these personnel have given their country.

97 The report also states *DVA cardholders are able to access many services — private hospitals, private specialists, dental services and travel for treatment — that are not available to other Australians without a charge. Gold Card holders are also exempt from paying the Medicare levy.*

a *A Google search* shows that those people supported under NDIS can access transport so this is obviously a false premise. https://www.ndis.gov.au/about-us/operational-guidelines/including-specific-types-supports-plans/including-specific-types-8.

b Also in Submission 79 by Mr Tymms travel costs are highlighted for Work Cover in Victoria.

c Where else is there selective use of statistics?

98 Another concern is that there are many other organisations using the same professional capability as DVA for the support of their clients. Mr Tymms mentioned three and with the ongoing roll out of NDIS and the recently announced Government age care programs to keep older people in their own homes there will be further competition for resources. DVA is one of the lower payers which will affect the quality of professionals available to support veterans. The PC needs to examine organisations that use the same professional resources as DVA to assess how payment schedules may affect the provision of services and how a sustainable system can be maintained.

99 The belief is that this has found its way into this Draft Report highlights the absence of competent senior veteran advice in the development of the draft report. The capture of such low hanging fruit without question, in a report with the potential to set the future direction of

veteran care and services is disappointing in the extreme. This was an issue raised in the DFWA submission to the PC.

COMMONWEALTH SUPERANNUATION CORPORATION (CSC)

100 In DFWA original submission, we recommended that *the Productivity Commission addresses the governance, efficiency and effectiveness of all Veteran services provided by all agencies, including CSC.* It is acknowledged that the report requests further information regarding CSC and DVA integration and that **Draft Recommendation 12.2** does recommend that DVA and CSC should 'work together'.

101 DFWA view is that this does not go far enough to address the governance required to ensure continuity of working together or to meet the standard enunciated in Recommendation 4.1:

"to improve the wellbeing of veterans and their families"

102 It is incongruous that the report is critical that "*Under the current governance arrangements, no single agency has responsibility for the lifetime wellbeing of veterans'*, but does not address military superannuation schemes and invalidity benefits of those. This is a most difficult and complex area, compounded by different governance arrangements, yet the draft Report fails to address this area and instead addresses DVA areas by trying to fit a worker compensation template over a different environment and culture.

103 DFWA made the case for addressing the governance issues in the original submission and will not repeat all of that again. To summarise concerns::

a There is only fleeting mention of the Commonwealth Superannuation Corporation (CSC) which provides a significant amount of support to injured veterans through the insurance aspect of their military superannuation.

b **A**nyone transitioned from the ADF on medical grounds would be eligible for some support from CSC and there are some major issues with the conduct of CSC when paying invalidity payments and their offsetting against DVA pensions.

c This Inquiry originated from concerns regarding Veteran suicide.

d Any veteran medically discharged from the ADF with mental health problems and vulnerable to suicide, would be eligible for CSC provided Invalidity Benefits.

e The whole area of superannuation, invalidity benefits and DVA provided benefits is confusing for the veteran. The legislation covering both areas is acknowledge by the courts, Department of Finance and all as being highly complex and confusing. It is confusing for the Veteran, it causes stress.

f The draft report **FAILS** to address this key area to any extent. For example, *Box 3.2 About the military superannuation schemes* omits to detail some very important areas of Military Superannuation:

i The invalidity payments can be offset against DVA invalidity payments, and

ii The Invalidity Benefit payments through military superannuation are reviewable to age 55 years both downwards and to zero. There are many cases where this has occurred. This is **UNIQUE** to the military. This can create some major issues when it comes to offsets and family law considerations. (In the family law case if a split of assets is made as a result of a military superannuation invalidity payment and the payment is reduced the veterans has to wear the reduction in total).

iii Military Superannuation is the most complex system compared to all other superannuation schemes available to other Australians. (Justice Logan made this observation at AAT Presidential Hearings, Burns and Douglas vs the Commissioner of Taxation Brisbane 12 December 2018. These are cases of major public importance and the Veterans have been provided with Test Case Litigation Funding by the Australian Solicitor General to have certain issues resolved.)

104 **Veteran Wellbeing Focus?** If the focus, as claimed in the report, is really on "*veteran wellbeing*" and issues like "affordability, " questioning the generosity" are not the main drivers, then there should be greater emphasis on CSC benefits as there are no provisions for rehabilitation in its management and there is a financial incentive to not being rehabilitated.

105 **Stakeholder Reluctance.** DFWA believes there is a reluctance by stakeholders to seriously consider further integration immediately coming up with reasons why it should not occur and ignoring the Veteran Wellbeing reason why it at least should be considered. Some conversations/observations:

a *CSC Invalidity Benefits, let alone superannuation, don't fit into a workers compensation best practice model*, So the PC gives scant attention to it .That is, let's leave the stress on the Veteran , forget about veteran wellbeing and concentrate on what we know.

b *The DVA VCR shortcoming is that it is really DVA legislation centric, which is a narrower subset of Veteran Centric. There is an organisational reluctance to embrace issues or adjust responsibilities beyond existing historical legislation boundaries and experience. This is not Veteran Centric. It is staying within a comfort zone.* However, who supports the veteran across those boundaries? There is no governance or accountability. The PC draft Report identifying the lack of accountability and responsibility for the End to End (E2E) Support of the life cycle and the need to address this is commended, however it fails to include the CSC element in this.

c CSC is one of the nation's largest superannuation providers and has achieved certain economies and efficiencies of such a scale, and losing the military side of that business could reduce those benefits, and CSC could argue strongly against any such move in the short term. However:

i CSC core business is not as a death and disability insurance provider. The complexities of extracting these elements out has got to start, in order to address the problems in this area. There will be difficulties but the alternative is to leave these complexities with the veteran which goes against the original intent of the PC referral and the stated objective of Veteran Wellbeing.

ii Looking well into the future and the future shape of Veteran support. CSC scale is based largely on numbers of members most of whom are older Defined Benefit Scheme members. These are locked into government provision and inability to transfer to other providers. Funding currently comes from Consolidated Revenue not investment. The management requirements of such schemes are not the same as industry "fund management" Enterprises.

iii In years to come, the newer ADF Super members on standard accumulation schemes and having the ability to choose their provider will not be locked in. It is possible that the Future Fund may also allow current defined benefit members to have the flexibility to transfer to another provider, looking forward, there will be strong argument for CSC schemes to be contracted and compete as another superannuation fund. It is highly likely that CSC scale would diminish as would its efficiencies of scale.

iv It would be more difficult for the non-standard military superannuation schemes to be transferred to another provider. Trying to apply the Superannuation Industry (Supervision) Act and associated SIS Regulations , applicable to all other schemes has been likened to trying to put square pegs in round holes by Justice Logan (Veterans vs Commissioner of Taxation 12 Dec 2019) and acknowledged by ATO and Department of Finance as outlined in our original submission. So fraught is this area that the Government introduced retrospective changes to regulations on the 7 December 2019 directly targeted at the Test Case Litigation Funding cases currently being heard. Such an ability would not be available to a non-government provider.

v It is deemed to be affordable and sustainable and withstand cost benefit scrutiny for Judges and Federal politicians' superannuation schemes to be outside the responsibility of CSC. Military superannuation is vastly different to, and far more complex than public service, politicians' and judges' schemes. This has been acknowledged by the Department of Finance and by the judiciary and is due to the unique requirements of military superannuation and related insurance, as previously referenced. Such reasoning at least justifies a serious look at bringing the military superannuation service providers under the governance of an organisation actively addressing the unique needs of Veterans.

PROPOSED CHANGE TO RECOMMENDATION 12.2

106 DFWA believes that at least the first step should be the establishment of a governance regime, with defined responsibilities and accountability to address the ongoing interworking of military superannuation with the DVA benefit operations. This regime should be formally established and not just rely on current goodwill and political imperatives. This should:

a Build on and formalise initial co-operative working recently established regarding medical examinations among CSC, DVA and ADF for those being medically discharged. This should create a permanent Agency within DVA and with Defence and CSC representation to oversee:

i Incremental development of interworking and information sharing requirements among Defence, DVA and CSC:

ii Provide for the establishment, maintenance and on-going management of data dictionaries to facilitate the exchange of information among IT systems.

iii Gathering of data and development of measures to assess efficiency and effectiveness

b DFWA proposes establishment of combined ON-BASE support with CSC joining current DVA presence to address frontline support for veterans to assist with these complexities. This could be done immediately.

c In the longer term, the board could assess the cost benefits of bringing all military superannuation under the one veteran governance regime.

See Governance and Funding section.

PREVENTING INJURY AND ILLNESS

107 **Report Rationale**. A key reason for the recommendation of charging Defence a premium on the cost of "workers compensation" is to incentivise Defence into looking after Veterans better, preventing injury and illness by proactive steps, encourage reporting and prompt treatment.

108 **Premium – An Ineffective Incentive**. As indicated in our original submission, DFWA favours greater visibility of the costs of providing Veterans wellbeing, analysed to a far greater

extent than that recommended by the draft Report which only addresses the “premium cost” . The premium cost is a gross measure and does nothing to target areas where Defence can realistically act. Deaths and many wounds, mental and physical, are the inevitable result of government (the ultimate Employer) decision, not Commanders on the ground. Rather than a Premium, DFWA has recommended calculation of costs dissected into:

a Operational by deployment types (Government Decision), peace-keeping, war, disaster support etc.;

b Out-of-barracks training/service (Mixture of Command Chain and Government responsibility[8]), e.g., repairing a vehicle in the operational area means the mechanic has to work on the ground, under vehicles on unstable ground, without the normal safety equipment and facilities of an in-barracks workshop similar to the civilian environment. In the field, the aim is to get the vehicle fixed asap and move as there are other dangers to health and safety affecting others. This environment is not experienced by other occupations, even Emergency Services. This must be practised in out-of-barracks training.to ensure capability on operations; and

c In-barracks military service (Command Chain Responsibility - closest equating to civilian work environment – e.g., a static vehicle workshop);

d All by service, veteran/veteran family and age groups.

109 The above data dissection would identify costs and attribute to decisions of the appropriate “Employer”. This would meet the draft Report aspiration of *Changes to the focus of the system will ….ensure that Defence and the Government are cognisant of the long term costs of its actions on serving personnel* far better than the gross Premium approach. The Gross premium, may be applicable in the normal work environment but as illustrated above, is not applicable in the unique military environment.

110 The figures given in the draft Report indicate the Defence is getting better and better at WHS. Reporting has improved and the support for it has improved and should be encouraged DFWA contends that there will always be an element of under-reporting as this is inherent in the cultivated culture which outs the ”team” and the ”team goal;” ahead of individual needs. .

111 Defence and Commanders at all levels have an incentive to ensure their personnel are fit and able to do their job as often they are highly trained and replacements are not available. If replacements are not available that has the potential to affect readiness and capability, increase the risk of injury to others and in the worst instance affect the defence of Australia. That is a very powerful incentive. There are also other options that could be used by the ADF to encourage a focus on WHS, for example:

a Inclusion of a WHS/broader wellbeing factor in Annual Evaluation Reports.

b Extension of punitive provisions in WHS legislation to Defence personnel.

REHABILITATION AND WELLNESS SERVICES

112 The issue with many parts of the draft Report is that it treats Defence and DVA as two mutually exclusive organisations. The overall focus should be the cost to Government as it is the Government that commits the ADF to conflicts. It is immaterial as to whether the

[8] Eg. Repairing a vehicle in the operational area means the mechanic has to work on the ground, under vehicles without the normal safety equipment and facilities of an in-barracks workshop mirroring civilian environment. In the field, the aim is to get the vehicle fixed asap and move as there are other dangers to health and safety affecting others not experienced by other occupations, even Emergency Services. This must be practised in out-of-barracks training.

rehabilitation cost is borne by Defence or DVA. The critical issue is that veteran has access to the support needed.

113 **Draft Finding 6.1.** Exception is taken to the comments on incentive. To think that Defence would provide a lesser level of service and support to a person who are likely to transition out or is transitioning out of Defence is abhorrent.

CONSUMER DIRECTED CARE (NDIS LIGHT?).

114 While this may work, the concern is if a person does not have good network the risk is that they will be disadvantaged. It also ignores the conditioning that occurs in joining the ADF and the ADF looking after many things for the Veteran that a civilian manages themselves. ADF personnel have all their health and medical needs provided. There is no choice, there cannot be in operations. There is no experience of personal management of these things. For those medically discharged, especially those traumatised and with medical health problems, expecting them to be responsible for consumer directed care totally ignores the situation of these Veterans.

115 It should be noted that all other occupations, including those of the emergency services experiencing similar traumas and dangers in their occupations, all have been responsible for their own health care. The Veteran, with the Unique Nature of Military Service does not. **The draft report FAILS to recognise the uniqueness yet again.** Consumer Directed Care may be an option but must not be the default.

ESOS AND ADVOCACY

116 The draft Report omits what would be one of the major roles of some ESO, i.e., advocating and lobbying for veterans in the political environment. Currently serving ADF members are not able to do this due to restrictions on their rights compared to other Australians. There is no other organisation that does this. This has been recognised by government and Defence which is why DFWA ha an “Authorised Intervener” role at the DFRT and why DFWA has been appointed to represent ADF members in the Public Safety Reference Committee in the national VET scheme.

117 If veterans are not represented there is a high risk that rights and entitlements will be eroded, or Government will not be made aware of possible consequences of their decisions on the veteran community.

118 ESO’s are in the general manned by volunteers and responses to government reports, such as this one, are developed by volunteers. Getting everyone together talking of the same sheet of music is like trying to herd cats. The ESO community has had to comment or provide input to about a report a month for the past year or so. The volunteers are becoming fatigued. It is incongruous that the Government is willing to fund professionals to do these reports but they rely on volunteers to provide them the information to enable them to produce the reports. Take the inputs to the PC report, a large percentage of them have been provided by volunteers. What sort of report would the PC be able to produce without this information?

119 The PC has focussed on funding for advocacy services and this appropriate, but they should also consider recommending providing funding for a ‘Veteran Centre of Excellence’ that would have experienced, professional, knowledgeable and appropriately remunerated personnel to be able to provide input to government reports and requests for information. It is acknowledged some funding should come from the more affluent ESO (RSL, Soldier on) however Government could co fund this centre.

VETERANS' ADVOCACY AND SUPPORT SERVICES SCOPING STUDY (VASSSS) REPORT

120 The report suggested that the PC will await the release of the VASSSS report. At briefings the PC admitted this was an issue and they would be making recommendations. Will there be consultation with ESO on the recommendations? Any recommendation without consultation would create a large amount of angst.

GOVERNANCE AND FUNDING

TRANSFER OF RESPONSIBILITY OF VETERAN SUPPORT TO DEFENCE.

121 **DFWA View**. Defence's role is to fight wars, not look after veterans. Giving the Department of Defence responsibility for veterans has the potential to dilute the focus of their attention. The concern is that if veteran support is to be transferred to Department of Defence it will be a low priority when it comes to the allocation of resources. For example if the Department of Defence had to choose to allocate resources to bombs, bullets and equipment to be ready for war or veterans; the fighting force must take precedence.

122 **History.** In the past, when there were budget cuts to be applied to Defence the "veteran care" area suffered in order for the operational capability – the sharp end – to get priority. Hundreds of uniformed roles in training, administration and support which were available for and had often been used to provide rehabilitation, respite and lower medical grade postings for ADF members were removed and replaced by civilians. As a result, the ADF now has few posts available to support in-service rehabilitation. Additionally, training courses have been pruned resulting in loss of recognition of military training for full civilian qualifications which creates Transition difficulties. There is no reason, when faced with budget restrictions in the future, that similar priorities will apply.

123 DFWA contends that veteran affairs must never come under Department of Defence however there is a good argument that veteran support should come under the Minister of Defence as a separate department or agency, but with a totally separate budget and budget process from the Department of Defence.

124 The PC stated in **Sect 11** 'Under the current governance arrangements, no single agency has responsibility for the lifetime wellbeing of veterans.' One would argue, at the moment, the current DVA has the lion's share of the responsibility for lifetime support and wellbeing of veterans.

125 The PC goes on to recommend veterans support be split into four:

a Veteran policy Group and Joint Transition Command under Defence and

b Veteran Services Commission and Veterans Advisory Council under the Minister of Defence Personnel and veterans

126 This seems ineffective and contrary to the PC TOR especially considering the reducing expenditure and client base of the current DVA. For efficiency it is strongly recommended there be one organisation supporting veterans with robust clinks to Defence to ensure actions within Defence will not have a deleterious effect on veterans both as they transition and are in the wider Australian Community.

127 The other issue that has not been addressed is the fact that this new structure will need resources and the report has made no attempt to quantify these resources and or possible budget or manpower cap changes to fund this increase in capability in Department of Defence

128 **Draft Report 11.5 Funding the System.** The report gives no indication as to the costs of implementation of their recommendations. This is a significant shortcoming of the entire report. The report talks about notional premiums then suggests actual funds transfer from

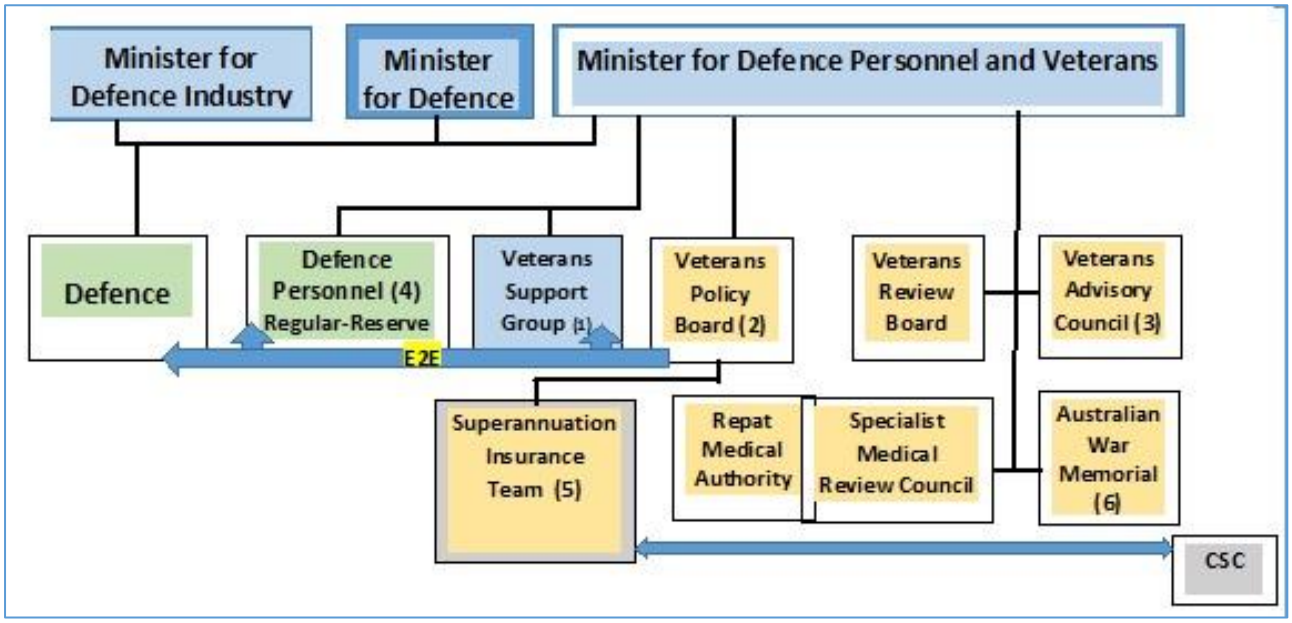
Defence to Veterans Affairs. Whether the premium is used or not, the question is how much and where does this money come from? If it is a set amount Defence has to transfer, then it may prejudice the ability to equip and train the war fighters and this would be totally unacceptable. The report recommends that the government increase funding to Defence to pay for the premium but the political will to do this must be considered. The report also recommends that the veteran support system be fully funded. The issue with this, as highlighted, is that that no one has any ideas of the number of veterans in the wider Australian society that may be entitled to DVA assistance. Until these people can be identified it will be impossible to provide a meaningful budget.

DFWA PROPOSAL

129 There is need for a standalone DVA to have clear objectives, independent voice, no conflict of objectives and for funding decisions to be made at the political level to meet the moral obligation of the Nation to its veterans. Many of the recommendations regarding improved cost capture and increasing transparency are supported and can be addressed without subsuming DVA within Department of Defence. A Minister with two hats as at present (Defence Personnel and Veteran Affairs), needs to be provided with an interdepartmental governance body with the power to co-ordinate and harmonise activities (many as proposed within the Draft Report) related to continuity of wellbeing care for veterans throughout their service and beyond. Much of this could be enhanced by the exchange of Liaison Officers between DVA and Defence Personal and establishing joint decision processes.

130 This would give a minister a 'cradle to grave' End to End (E2E) responsibility for Defence personnel and reduce the incidences of obfuscation between Department of Defence and the agency supporting veterans as the Minister will have overall responsibility. This recommendation is reflective of the fact that there are no knowledgeable ex-military personnel with the Productivity Commission as they would know that giving Department of Defence veteran responsibilities had the potential to either adversely affect war fighting capability or reduce levels of support to veterans as has happened in the past.

131 An alternative governance regime is shown at Box 2.



Box 2 – Alternate Org

132 **Note 1. Veterans Support Group**. Manage Veteran support system iaw all Acts, Regulations and Government policy and directives regarding Veterans and their families.

a Calculate and attribute costs of Veteran support to operational deployments, training and support for operational deployments and in-barracks peace-time operation.

b Provide Near-Base Support/One-Stop Shop for Veterans and Families. Permanent presence in high population ADF presence. Part-Time/Visiting presence in all other Locations. Accessible without Security Passes. Possibly located with ESO outlooks. (Townsville Oasis Centre)Telephone and on-line support presence and for Transition. One stop shop for:

i VEA/DRCA/MRCA Issues.

ii Superannuation/Invalidity Benefits.

iii Transition Issues.

133 **Note 2 Veterans Policy Board.** Responsible for veteran Support Policies and Strategic Planning, including:

a Continual Improvement Programme,

b End to End Veteran life-cycle wellbeing support **for veterans andfamilies;**

c Co-ordination, including:

i in-service, SERCAT Transitions,

ii Military Superannuation and Invalidity Benefit services;

iii Final Transition,

iv Post Service support, and

v Veteran Aged Care support with OGD.

134 **Note 3 Veterans' Advisory Council.** Similar to that proposed with composition to include ESO representation as well as industry experts. Secretariat Support to Veteran Ministers' Round Table and ESORT and other Veteran/DVA Forums as necessary. .

135 **Note 4 Defence Personnel.** Existing People Group, but with remit to address Reserve and 'Transition Issues for wellbeing support and superannuation insurance and MRCA

136 **Note 5 Superannuation Insurance Team.** Co-ordination of Veteran Invalidity Benefit management and information exchange facilitation and management. Support Veteran Policy Board to policy development and strategic planning of support services to members for veteran superannuation and insurance, Management of military superannuation elements of near-base one-stop shop and transition support.

137 **Note 6 AMW.** Possibly including current DVA commemorative function depending on cost-benefit analysis of transfer and review of effectiveness.

PART 3 - SUMMARY OF DFWA RESPONSES TO DRAFT RECOMMENDATIONS

Ser	Draft Report	Response
1.	**DRAFT Recommendation 4.1** 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 Australian Defence Force 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	**DFWA Support except for highlighted lines**: • Should be "*providing adequate and appropriate support* (not compensation) *for veterans for pain and suffering etc, and their family for loss if the veteran dies and for pain and suffering and lost income due to supporting veteran incapacitated by a service-related injury*. This is not just about compensation, it is veteran and veteran family support needed due to incapacity caused by deliberate government action to put the veteran into harm's way. • Should be "recognising *the unique needs of veterans and their families resulting from the veterans' military service*. • Financial Sustainability and Affordability. These are value judgements at political level and are made when the government decides to have a professional volunteer ADF and when the government commits the ADF to operations. Should include words to the effect of *"Implied financial sustainability and affordability of the veteran support system by the government in maintaining the ADF and committing it to operations. "* **Reasoning** **See Part 2: Overarching Objective.**
2.	**Draft Finding 5.2** However, despite these efforts, underreporting of work health and safety incidents on Sentinel (other than for serious, defined events that must be notified to Comcare) continues to be an issue.	**DFWA Support**. Underreporting is due in part, for some, to side effect of the military culture deliberately fostered to win wars ADF primary purpose.
3.	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.	**DFWA Support**

Ser	Draft Report	Response
4.	**Draft Recommendation 5.2** 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.	**DFWA Support**.
5.	**Draft Recommendation 5.3** 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).	**DFWA Support Intent of greater visibility of wellbeing costs and support actuarial report but there should be greater granularity of costs.** **DFWA Reject the grossness of the overall Premium concept and its application.** **Suggest:** Support greater visibility of costs but reject the notion of reporting "notional workers' compensation premiums" as this attempts to put square pegs into round holes and make assumption failing to recognise the unique nature of military service. Support publication of costs dissected into operational due to deployment types, out-of-barracks training/service and in-barracks military service, by service, veteran/veteran family and age groups. Estimates of notional premiums based on standard workers compensation principles will not necessarily capture the costs of broader support provided to veteran families. Costs for Invalidity Benefits related to DFRDB, MSBS and ADF Cover should also be captured. **Reasoning:** **See Part 1 – Establishment of Premium to be Paid by Defence. –** **Part 1 and Part 2–Preventing Injury and Illness**
6.	**Draft Recommendation 6.1** The Australian Defence Force Joint Health Command should report more extensively on outcomes from the Australian Defence Force Rehabilitation Program in its Annual Review publication.	**DFWA Support**.
7.	**Draft Recommendation 6.2** The Department of Veterans' Affairs should make **greater use of the rehabilitation** data that it collects and of its reporting and evaluation framework for rehabilitation services. It should: evaluate the efficacy of its rehabilitation and medical services in improving client outcomes	**DFWA Response:** Generally support in principle. **Suggest Reword** to reflect reality. ADF members are not "workers" or "employees". As per "*compare its rehabilitation service outcomes with ~~other~~ workers' compensation schemes ….*"

Ser	Draft Report	Response
	compare its rehabilitation service outcomes with other workers' compensation schemes (adjusting for variables such as degree of impairment, age, gender and difference in time between point of injury and commencement of rehabilitation) and other international military schemes	
8.	**Draft Recommendation 6.3** Defence and the Department of Veterans' Affairs need to engage more with rehabilitation providers, including requiring them to provide evidence-based approaches to rehabilitation, and to monitor and report on treatment costs and client outcomes. Changes are also required to the arrangements for providing and coordinating rehabilitation immediately prior to, and immediately post, discharge from the Australian Defence Force (ADF). Rehabilitation services for transitioning personnel across this interval should be coordinated by **Joint Transition Command** (draft recommendation 7.1). Consideration should also be given to providing rehabilitation on a non-liability basis across the interval from ADF service to determination of claims post-service.	**DFWA Response:** **Support intent of recommendation but oppose concept of Joint Transition Command in Defence.** Suggest Delete "Joint Transition Command" insert "*DVA or Transition Support Organisation.*
9.	**Information request 6.2** 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.	**DFWA Response**: See Main Report (NDIS Lite). • Support only as alternative if veteran capable. • Veteran can opt out and opt in as a choice.. • Easily targeted for cost-cutting. • Oppose joining with NDIS regime
10.	**DRAFT Recommendation 7.1** 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.	**DFWA Oppose** Support ADSO Reasoning. Defence responsibility is defence of nation. All other responsibilities are secondary to that. Support the Functions and responsibilities thas need to be addressed Needs to include military superannuation and Invalidity Benefits. This relates to through life responsibility for well-being of veteran – cradle to grave as veteran progresses from ADF – possibly Reserves – Transition – Vet Affairs – Aged Care. Horizontal ownership of responsibility for the veteran/family as they progress through the ADF/CSC/ DVA/Aged Care organisational towers needs to be addressed. **Reasoning** **See Part 2 – Transition and Governance and Funding.**

Ser	Draft Report	Response
11.	**DRAFT RECOMMENDATION 7.2** Defence, through Joint Transition Command (draft recommendation 7.1), should: require Australian Defence Force members to prepare a career plan that covers both their service and post-service career, and to update that plan at least every two years prepare members for other aspects of civilian life, including the social and psychological aspects of transition reach out to families, so that they can engage more actively in the process of transition.	**DFWA support All except the Transition Command concept.** Preparation and regular review of career/transition plan for veterans and families. Support annual transition briefings from Defence/DVA and CSC and preparation of transition plan with regular review. Two yearly acceptable, but with Transition mentor in yearly in last 5 years. .
12.	**DRAFT RECOMMENDATION 7.3** The Department of Veterans' Affairs should support veterans to participate in education and vocational training once they leave the Australian Defence Force. It should trial a veteran education allowance for veterans undertaking full-time education or training.	**DFWA Support.** There is precedent. National Servicemen could obtain up to one year full-time study free, including university, with a living allowance. More recent recruiting incentives provided for similar after periods of satisfactory service.
13.	***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?*	**DFWA Supports further work in this area.** Need to distinguish between: • allowance for normal Transition, and • education support for those incapacitated under MRCA s38.
14.	***INFORMATION REQUEST 7.3*** The Commission is seeking further information on the transition needs of members when they leave the Reserves.	**DFWA recommends further work in this area.** ADF members may go through several mini-transitions involving a mixture of full-time and part-time service Responsibility for managing the many complexities in this area need to be addressed. **See Part 2 – Transition and Governance.**
15.	**DRAFT RECOMMENDATION 8.1** 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.	**DFWA supports the first two bullets.** DFWA supports the two standards of proof reasoning agreed by ADSO. If only one standard of proof required it has to be reasonable hypothesis as it cannot be balance of probabilities in deployed environment.
16.	***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	**DFWA supports reasonable hypothesis** It cannot be balance of probabilities for deployed people

Ser	Draft Report	Response
	choice on future claims and government expenditure, and how could they be quantified?	
17.	**DRAFT RECOMMENDATION 8.2** 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.	**DFWA opposes the loss of an independent review function capability.** **Reasoning.** **See ADSO response.**
18.	**DRAFT RECOMMENDATION 9.1** The Department of Veterans' Affairs should report publicly on its progress in implementing recommendations from recent reviews (including the 2018 reports by the Australian National Audit Office and the Commonwealth Ombudsman) by December 2019.	**DFWA Supports.** This is consistent with DFWA original recommendation in response to the Issues paper – Establish a formal Continual Process Improvement Programme with constant review, assessment and publication of results.. As per Business Best Practice. See Part 2 – Continual Improvement Programme.
19.	• **DRAFT FINDING 9.1** MyService, in combination with a completed Early Engagement Model, has the potential to radically simplify the way Australian Defence Force members, veterans and their families interact with the Department of Veterans' Affairs (DVA), particularly by automating the claims process. But achieving such an outcome will be a complex, multi-year process. To maximise the probability of success, Defence, DVA and the Department of Human Services will need to: continue to work closely in a collegiate and coordinated fashion retain experienced personnel allocate sufficient funding commensurate with the potential long-term benefits.	**DFWA Supports.** This is consistent with DFWA original recommendation in response to the Issues paper – Establish a formal Continual Process Improvement Programme with constant review, assessment and publication of results.. As per Business Best Practice. **Reasoning:** **See Part 2 – Continual Improvement Programme**.
20.	**DRAFT RECOMMENDATION 9.2** 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	**DFWA Support.** This should also apply to contract staff employed by DVA (and any future Veteran Support organisation) either directly or through a contracted service provider.
21.	• **DRAFT FINDING 9.2** 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.	**DFWA opposes the concept of a full-funded scheme**. DFWA proposes that affordability and sustainment of Veteran Support service provision and standards is taken into account by government when government makes decisions regarding establishing, maintaining and committing the ADF to operations. Such decisions should be informed by data provision from DVA and Defence based on historical data and modelling of future deployments and ADF services.

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		DFWA rejects any concept of funding that introduces retrospective changes to agree services based revisions of judgements of affordability and financial sustainability. **Reasoning** **See Part 2 – Affordability and Financial Sustainment., Governance and Funding**
22.	• **DRAFT FINDING 9.3** 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.	**DFWA Supports.** This is consistent with DFWA original recommendation in response to the Issues paper – Establish a formal Continual Process Improvement Programme with constant review, assessment and publication of results.. As per Business Best Practice. **Reasoning:** **See Part 2 – Continual Improvement Programme**
23.	**DRAFT RECOMMENDATION 9.3** 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.	**DFWA Supports.** This is consistent with DFWA original recommendation in response to the Issues paper – Establish a formal Continual Process Improvement Programme with constant review, assessment and publication of results.. As per Business Best Practice. See Part 2 – Continual Improvement Programme.
24.	• **DRAFT FINDING 9.5** 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.	**DFWA Supports.** This is consistent with DFWA original recommendation in response to the Issues paper – Establish a formal Continual Process Improvement Programme with constant review, assessment and publication of results.. As per Business Best Practice. See Part 2 – Continual Improvement Programme.
25.	Most decisions made by DVA to provide (or not provide) compensation or support to veterans can be challenged through administrative review processes. However, there are a number of issues with the existing processes which warrant reform and a common approach is required for all claims.	Support common approach
26.	**DRAFT RECOMMENDATION 10.1** 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.	**DFWA STRONGLY SUPPORT** greater transparency by publication of Findings of VRB and AAT in sufficient detail to inform DVA staff and ESO Advocates. This should be incorporated in Advocate Continuing Professional Development and DVA Delegate initial and ongoing training. **DFWA Supports.** This is consistent with DFWA original recommendation in response to the Issues paper – Establish a formal Continual Process Improvement Programme with constant review, assessment and publication of results.. As per Business Best Practice. **Reasoning:** **See Part 2 – Continual Improvement Programme**

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	DVA should consider this reporting and respond by making appropriate changes to its decision-making processes.	
27.	**DRAFT RECOMMENDATION 10.2** 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.	**DFWA – See Response to Draft Recommendation 10.3.**
28.	**DRAFT RECOMMENDATION 10.3** 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. Cases that would require a full board hearing under the current process, or where parties fail to agree on an appropriate alternative dispute resolution process or its outcomes, could be referred to the Administrative Appeals Tribunal. Parties to the VRB resolution processes should be required to act in good faith.	There is a lot in this recommendation and further consideration and development is required. In the move for efficiency and adopting alleged best practices, the veteran centric focus has been lost. There is no hard evidence for changes to VRB process. **DFWA opposes** **The** removal of VRB Hearing from single review path; with appeals unsuccessful at ADR proceed direct to AAT This removes the (veteran-friendly) inquisitorial environment of VRB and places veteran in highly adversarial, barrister-driven AAT. •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. **DFWA supports:** Retain the right for the veteran to choose between the ADR process or going direct to the VRB. Oppose restricting role of VRB. Retain no lawyer at VRB proceedings to retain inquisitorial approach.
29.	**DRAFT RECOMMENDATION 10.4**	**DFWA Support a formal Continual Improvement Process Program**

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	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.	VRB performance, process, utility be reviewed as part of normal Continual Improvement Programme. There is no hard evidence to warrant its disbanding. Its abolition is nor pre-ordained. The Review should to incorporate effects of Recommendation 10.1, i.e., publication of Findings of VRB and AAT in sufficient detail to inform DVA staff and ESO Advocates. This should be incorporated in Advocate Continuing Professional Development and DVA Delegate initial and ongoing training.
30.	Under the current governance arrangements, no single agency has responsibility for the lifetime wellbeing of veterans. Strategic policy in the veteran support system appears to be largely reactive, with changes often making the system more complex and expensive. Also, the veteran support system, which has large contingent liabilities, is funded on a short-term basis, and long-term costs are poorly understood. New governance and funding arrangements are required to develop and administer a new veteran support system for future generations of veterans and their families.	**DFWA Suggestion** **See Part 2 – Governance and Funding**
31.	**DRAFT RECOMMENDATION 11.1** 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.	**DFWA Supports combining Ministerial Responsibilities and argued for this in our original submission.** **DFWA Opposes placing the Veteran Policy Group (and a Veteran Support Organisation) under Defence** **Original DFWA Submission** recommends that Minister for Veteran Affairs continues to also hold the Defence Personnel portfolio under the Minister for Defence appropriately resourced to deliver expanded Veteran support functions and support end-to-end governance of Veteran support. Potential advantages would be: • Defence understand the Unique Nature of Military Service and military culture. • It would provide "a Cradle to Grave" management of defence personnel and Veterans. • It could facilitate the rotation of personnel (trained in Veteran-Centric approach) through positions supporting end-to-end Veteran support, whether that position was in Defence/ADF or DVA, thereby promoting greater understanding of the E2E support and of the different departments involved. **Reasoning:** **See Part 2 – Governance and Funding.**

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32.	**DRAFT RECOMMENDATION 11.2** 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.	**DFWA Response**: Oppose Data and hard evidence not available to compare existing performance against proposed new model. NSW Parliamentary Inquiry into Worker Superannuation reveal similar, if not worse problems with that , than with DVA, including areas concerning PTSD, suicidality. There is no evidence supporting a wholesale adoption of the civilian worker Compensation Model. Some aspects of best practice are supported. **Reasoning** **See Part 1 – Main Issues** **Part 2 – Best Practice Workers Compensation** .
33.	**DRAFT RECOMMENDATION 11.3** 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.	**DFWA Supports.** It should mandate some representatives appointed from ESO and have broader responsibilities. **Reasoning** **See Part 2 – Governance and Funding.**
34.	**DRAFT RECOMMENDATION 11.4** 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.	**DFWA –Neutral** DFWA believes any action in this area should be based on a cost benefits analysis including quantification of effectiveness and relationship to veteran well-being, and the costs of the actual transfer. At present there is no hard evidence regarding costs.
35.	**DRAFT RECOMMENDATION 11.5** Once the new governance arrangements in draft recommendations 11.1 and 11.2 have commenced, the	**DFWA opposes.** The rationality of policies are best tested at the extremities of possible situations.

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	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.	DFWA opposes the concept of a fully funded veteran support system with annual premiums being applied based on estimates of injuries and illness in decisions made by government going committing the nation to war. **Reasoning.** **See Part 1 – Main Issues** **Part 2. Preventing Injury and Illness**
36.	The compensation package is complex — with offsetting provisions applying between the three main compensation Acts, and a system of superannuation invalidity and life insurance operating alongside the compensation system. Reform is needed to simplify the system, and improve equality between veterans.	Agree **Reasoning:** **See Part 2 – Continual Improvement Programme** **The CIP should involve CSC through the DFWA proposed Superannuation Insurance Team as per Part 2 – Governance.**
37.	**DRAFT RECOMMENDATION 12.1** 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.	**DFWA Response supports harmonisation in principle as it was suggested in DFWA original submission.** This should be assessed by the formal Continual Improvement Programme and if cost-effective and adopted if no detriment to Veterans existing benefits or entitlements. **Reasoning:** **See Part 2 – Continual Improvement Programme** And **Original DFWA submission to Issues Paper.**
38.	**DRAFT RECOMMENDATION 12.2** 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 of the proposed Veteran Services Commission (draft recommendation 11.2), consideration should be given to whether it should administer the CSC invalidity pensions.	**DFWA Response: Strongly Support** DFWA Original submission last year supported integration of military superannuation, including Invalidity Benefits to DVA. This goes part way. Should address data dictionaries (DVA/CSC/Defence) **Reasoning** **See Part 2 – Commonwealth Superannuation Corporation and Governance and Funding.**
39.	***INFORMATION REQUEST 12.1*** 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 should be addressed progressively and DFWA has suggested a mechanism to foster and provide management to reduce the complexities in this area to support veteran wellbeing. **Reasoning** **See Part 2 – Commonwealth Superannuation Corporation and Governance and Funding**.
40.	The veteran permanent impairment and incapacity payments, and dependant benefits include many	DFWA believes there are a lot of unsubstantiated assertion made here and questions the relevance of the

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	provisions that are unique to the veteran compensation system — **they do not have parallels in other workers' compensation schemes.** And there is little rationale for a number of these payments. They also add complexity, lead to inequities and can hinder the rehabilitation focus of the veteran support system. Most of these provisions do not lead to large increases in compensation — removing or improving these provisions is unlikely to have a substantial effect on the compensation received by veterans.	comparison to "other workers" and their compensation schemes. This is trying to trim the veteran round peg to fit into the holy grail of other worker compensation schemes and totally ignoring the unique nature of military service and any pretences of "veteran centric" considerations. The costs are minimal and it is low hanging fruit. There are far more important issues to address.
41.	**DRAFT Recommendation 13.1** 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.	**DFWA Oppose this recommendation and support the reasons submitted in the ADSO submission and the DFWA (WA) submission.**
42.	***INFORMATION REQUEST 13.1*** 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.	**DFWA Oppose** Raising this question as we reject the premise on which it is based,
43.	**DRAFT RECOMMENDATION 13.2** 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.	**DFWA Response: More Consideration Required in this change area.** • DFWA has serious reservations about options of payments of lump sums to veterans suffering from substance abuse. • Giving lump sums to Ice Addicts is not an action which considers the wellbeing of Veterans at all. • This matter needs to be addressed in the whole context of this recommendation. **Please consider deferring. Veterans are currently suffering.**
44.	**DRAFT RECOMMENDATION 13.3** 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.	**DFWA Response: No objection in principle, However, More Consideration Required in this change area.** • DFWA has serious reservations about options of payments of lump sums to veterans suffering from substance abuse. • Giving lump sums to Ice Addicts is not an action which considers the wellbeing of Veterans at all. • This matter needs to be addressed in the whole context of this recommendation. **Please consider deferring. Veterans are currently suffering.**
45.	**DRAFT RECOMMENDATION 13.4** 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 person	**DFWA Oppose** DFWA opposed elements of Recommendation 4.1 relating to overarching objectives: • Should be adequate and appropriate support (not compensation) for veterans for pain and suffering etc, AND veterans family for loss if the veteran dies and for pain and suffering and lost income due to supporting veteran incapacitated by a

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		service-related injury. This is not just about compensation, it is veteran and veteran family support needed due to incapacity caused by deliberate government action to put the veteran into harm's way. • Recognising the unique needs of veterans and their families resulting from the veterans' military service. • Homogenisation of entitlements with civilian community ignores unique nature of military service.
46.	**DRAFT RECOMMENDATION 13.5** 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.	**DFWA Support**. Consideration of this should be part of a continual review and change programme achieved incrementally**.** **Reasoning:** **See Part 2. Continual Improvement Program.**
47.	***INFORMATION REQUEST 13.2*** The Commission is seeking further information on the costs and benefits of removing the remuneration loading and replacing it with superannuation contributions for veterans with long-term incapacity. What are the barriers to providing superannuation to veterans on incapacity payments, and how could these be overcome?	**DFWA Supports further examination in this area.** DRSA payments are reduced by 5% as a notional deduction for super contribution, but it is never paid
48.	**DRAFT RECOMMENDATION 13.6** 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.	DFWA Supports grandfathering of benefits and entitlements.
49.	**DRAFT FINDING 13.3** 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.	**DFWA Response.** DFWA does not support the notion that a welfare provided Service Pension should be regarded as part of a compensation package. The compensation package (special rate disability) should be standalone and clearly identified as compensation. Eligibility for the Service Pension should be based on Income and Assets testing.
50.	**DRAFT RECOMMENDATION 13.7** 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.	**DFWA Response.** Persons receiving or entitled to receive this benefit if a partner dies should retain the entitlement to the benefit.

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51.	**DRAFT RECOMMENDATION 13.8** The Australian Government should amend the *Military Rehabilitation and Compensation Act 2004* to remove the additional lump sum payable to wholly dependent partners of veterans who died as a result of their service. The Australian Government should increase the wholly dependent partner compensation by the equivalent value of the lump-sum payment (currently about $115 per week) for partners of veterans where the Department of Veterans' Affairs has accepted liability for the veteran's death.	DFWA Supports if no detriment to recipients or eligible persons.
52.	**DRAFT RECOMMENDATION 14.1** 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*.	**DFWA Requests greater clarification.**
53.	**DRAFT RECOMMENDATION 14.2** 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.	**DFWA Requests greater clarification** No detriment principle should apply.
54.	**DRAFT RECOMMENDATION 14.3** 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.	**DFWA Requests greater clarification**
55.	**DRAFT RECOMMENDATION 14.4** 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.	**DFWA Requests greater clarification** DFWA does not support the removal of Decoration Allowance. The savings would be minimal It is a symbolic allowance and removal would be regarded as such. Such a recommendation would detract from other Recommendations in the Report.

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56.	**DRAFT RECOMMENDATION 14.5** 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.	**DFWA Oppose without hard evidence** **Support with hard evidence only.** A cost benefit analysis (social and economic). Social and economic benefit-cost analysis is required. This should be part of business as normal and address through the Continual Improvement Programme. **Reasoning:** **See Part 2 – Continual Improvement Programme.**
57.	**DRAFT RECOMMENDATION 14.6** 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.	**DFWA Oppose without hard evidence** **Support with hard evidence only.** Part of harmonisation process supported by DFWA. No detriment principle should apply.. **Reasoning:** **See Part 2 – Continual Improvement Programme.**
58.	• **DRAFT FINDING 15.1** Funding the treatment of service-related conditions, as is done through the White Card, is well-justified — it appropriately targets veterans with health needs and is similar to workers' compensation healthcare entitlements. The Gold Card, however, runs counter to a number of the key principles that should underlie a future scheme— it is *not* needs based (because it is not targeted to service-related health needs), wellness focused (there can be an incentive to remain unwell), or efficient (by potentially encouraging over-servicing).	**DFWA Disagree.** **DFWA does not support the principle referred to. See Part 2 – Overarching Objective.** **Reasoning** **See Part 2 – Gold Card**
59.	**DRAFT RECOMMENDATION 15.1** 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.	**DFWA Disagree.** **DFWA does not support the principle referred to. See Part 2 – Overarching Objective.** **Reasoning** **See Part 2 – Gold Card**
60.	***INFORMATION REQUEST 15.1*** *Given the Gold Card runs counter to a number of key design principles, the Commission is seeking feedback on whether a future system should have a coloured health card system. If not, what are the other options?* In particular, the Commission is seeking feedback on the benefits and costs of providing the Gold Card to dependants, service pensioners and veterans with qualifying service at age 70.	**DFWA disagrees with introductory premise.** **See Part 2 – Gold Card**
61.	**DRAFT RECOMMENDATION 15.2** The Department of Veterans' Affairs should amend the payments for the Coordinated Veterans' Care program so that they reflect the risk rating of the patient that they are paid for — higher payments for higher risk patients and lower payments for lower risk patients. Doctors should be able to request a review of a patient's risk rating, based on clinical evidence.	**DFWA- Unable to Respond within time**

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62.	**DRAFT RECOMMENDATION 15.3** The current (2013–2023) Veteran Mental Health Strategy has not been very effective and should be updated in light of recent policy changes (such as non-liability access) and research findings on emerging needs. The Department of Veterans' Affairs (DVA) (in consultation with the Departments of Health and Defence) should urgently update the Veteran Mental Health Strategy, so that it guides policy development and implementation over the medium term. It should: be evidence-based, including outcomes from policy trials and other research on veterans' mental health needs set out clear priorities, actions and ways to measure progress commit DVA to publicly report on its progress. The Strategy should include ways to promote access to high-quality mental health care, and to facilitate coordinated care for veterans with complex needs. It should also have suicide prevention as a focus area and explicitly take into account the mental health impacts of military life on veterans' families.	**DFWA- Unable to Respond within time**
63.	**DRAFT RECOMMENDATION 15.4** The Department of Veterans' Affairs (DVA) should monitor and routinely report on Open Arms' outcomes and develop outcome measures that can be compared with other mental health services. Once outcome measures are established, DVA should review Open Arms' performance, including whether it is providing adequate, accessible and high-quality services to families of veterans.	**DFWA Support,** Strongly support dedicated veteran and family counselling service; **Reasoning:** **See Part 2 – Continual Improvement Programme**
64.	***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?	**DFWA- Unable to Respond within time**
65.	***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	**DFWA- Unable to Respond within time.** Initial reaction is to oppose as many vulnerable Veterans would not have capability of managing this. **Should be Considered as part of CIP.** **See Part 2 Continual Improvement Plan**
66.	The gaps in information about veterans are significant and there is limited evidence on the effectiveness of services provided to veterans. This inquiry was limited by the lack of data and the poor linking of data. Reform is needed to improve data held on veterans and build an evidence base on what does and does not work.	Strongly Support. See Part 2 –Quantification of Resources

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67.	• **DRAFT FINDING 16.1** There is a lack of robust data and evidence on many crucial aspects of the veteran support system. This impedes the design and delivery of effective supports for veterans and their families.	**DFWA Strongly Support**. See Part 2 –Quantification of Resources
68.	**DRAFT RECOMMENDATION 16.1** The Department of Veterans' Affairs should develop outcomes and performance frameworks that provide robust measures of the effectiveness of services. This should include: identifying data needs and gaps setting up processes to collect data where not already in place (while also seeking to minimise the costs of data collection) using **data dictionaries to improve the consistency and reliability of data** analysing the data and using this analysis to improve service performance.	**DFWA strongly support.** • Does not go far enough –illustrates that focus of Report is DVA Centric not Veteran Centric. • e.g. The BIG GAP AREA where the Report acknowledges there is a breakdown in exchange of information which causes harm to veterans affected is not addressed in the report. • **data dictionaries** need to be agreed and configuration controlled between Defence, DVA and CSC, to facilitate transfer/exchange of information on health etc., between the stakeholders **Reasoning:** **See Part 2 – Continual Improvement Programme** **Commonwealth Superannuation Corporation** **Proposed Change to Recommendation 12.2**
69.	**DRAFT RECOMMENDATION 16.2** The Department of Veterans' Affairs should conduct more high-quality trials and reviews of its services and policies for veterans and their families by: evaluating services and programs (in ways that are commensurate with their size and complexity) publishing reviews, evaluations and policy trials, or lessons learned incorporating findings into future service design and delivery.	**DFWA Support:** This is consistent with DFWA recommendations in Original submission for DVA to adopt **a formal Continual Improvement Process Program** in accordance with business best practice. **Reasoning:** **See Part 2 – Continual Improvement Programme**
70.	**DRAFT RECOMMENDATION 16.3** The Department of Veterans' Affairs should set research priorities, publish the priorities in a research plan and update the research plan annually.	**DFWA Support.** **Reasoning:** **See Part 2 – Continual Improvement Programme**
71.	One of the key drivers for this inquiry was the complex legislative framework underpinning the veteran compensation system. The Commission is proposing simplifying the system by moving to two schemes, while minimising disruption to existing claimants. Importantly, our proposed changes will mean there will be one scheme and one Act in the long term. Although legislative simplification is not a solution for all the issues facing the veteran support system, and some complexity will remain, this approach sets up Australia to have much better, fit-for-purpose compensation and rehabilitation arrangements for the future.	
72.	**DRAFT RECOMMENDATION 17.1** By 2025, the Australian Government should create two schemes for veteran support — the current *Veterans' Entitlements Act 1986* (VEA) with some modifications ('scheme 1') and a modified *Military Rehabilitation and Compensation Act 2004* (MRCA) that incorporates the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) ('scheme 2'). Eligibility for the schemes should be modified so that:	**DFWA Support**. Consistent with harmonisation goal supported in original submission. Suggest modify to give Veterans a choice for 3rd situation with default as suggested. Should be introduced incrementally. **Reasoning:** **See Part 2 – Continual Improvement Programme**

Ser	Draft Report	Response
	veterans who only have a current or accepted VEA claim for liability at the implementation date will have all their future claims processed under scheme 1. Veterans on the VEA Special Rate of Disability Pension would also have their future claims covered by scheme 1. Veterans under 55 years of age as at the implementation date should be given the option to switch their current benefits and future claims to scheme 2 veterans who only have a current or accepted MRCA and/or DRCA claim, (or who do not have a current or accepted liability claim under VEA) as at the implementation date will have their future claims covered under scheme 2. Other veterans on MRCA or DRCA incapacity payments would have their future claims covered by scheme 2 remaining veterans with benefits under the VEA and one (or two) of the other Acts would have their coverage determined by the scheme which is the predominant source of their current benefits, or their age, at the implementation date. Dependants of deceased veterans would receive benefits under the scheme in which the relevant veteran was covered by. If the veteran did not have an existing or successful claim under VEA as at the implementation date, the dependants would be covered by scheme 2. Veterans who would currently have their claims covered by the pre-1988 Commonwealth workers' compensation schemes should remain covered by those arrangements	
73.	***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?**	**DFWA Support Choice** See previous serial

Annex:

A. Examples of Issues with Industry Best Practice Workers Compensation Insurers.

ANNEX A

EXAMPLES OF ISSUES WITH INDUSTRY BEST PRACTICE WORKERS COMPENSATION INSURERS

Evidence	Observation
CASE STUDY: PTSD VICTIM. EMPLOYER NOT INCENTIVISED BY PREMIUM (Adviceline Injury Lawyers News. 22 February 2019,) The reporter, who can only be referred to as YZ for legal reasons, has today been awarded $180,000 damages after Adviceline Injury Lawyers successfully argued that her psychological injuries were caused by **the newspaper's negligence and failure to provide a safe workplace.** County Court judge Chris O'Neill found that the injury should have been foreseen and could have been prevented. **A three-week civil trial** heard that the reporter had repeatedly asked her superiors for better welfare support and debriefing after covering stories about death and destruction every day for almost a decade up until she took a voluntary redundancy in 2013. The judge ruled there was sufficient evidence to show **the reporter had complained to several editors and HR personnel about the level of trauma she was being exposed to and the impact it was having, yet no training or adequate welfare support was ever provided.** Managing Partner, Bree Knoester, from Adviceline Injury Lawyers, said the decision **highlighted the duty of care all workplaces owed their employees**. Ms Knoester said that this landmark decision is a stark reminder to media organisations of their obligations to safeguard against the risk of psychological and psychiatric injury. "When your employees are exposed to, and reporting on, details of the most horrific and devastating news stories, the risk of psychological injury is clearly foreseeable" said Ms Knoester. **The Age's WorkCover insurer, EML, subpoenaed medical records and consultation notes from Employee Assistance Program (EAP) sessions the reporter attended to unsuccessfully argue that her work was not the cause of her injury**.	Premiums do not necessarily incentivise Employers in duty of care. Consider the legal costs for 3 weeks civil trial. And the costs of 5 years of claim processing and investigation Consider the effect on the employee going through this. EML is cited 17 times in the PC report putting the cases for best practices of workers compensation to be adopted for Veteran Support. It is also critical of generous veteran. benefits, and bad case management, delays in claims by DVA .

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EXCERPTS FROM FIRST REVIEW OF THE WORKERS COMPENSATION SCHEME

(Legislative Council, Standing Committee on Law and Justice. [Sydney, N.S.W.] 2017. (Report; no. 60)

Evidence	Observation
CASE STUDY: MR BRENDAN BULLOCK602 Mr Bullock is a former NSW Police Force detective senior constable. In 2012, he was medically discharged from the force having been diagnosed with **chronic PTSD**. Mr Bullock's psychiatric injury is attributed **to exposure to traumatic incidents spanning his 15 year career.** In light of his injury, Mr Bullock **applied to EML for workers compensation in 2012**. Mr Bullock **experience with EML was distressing from the outset**. He felt relentless pressure from case managers to participate in an interview with a private investigator about the cause and nature of his psychiatric injury. Indeed, he felt that the case managers assumed his claim was fraudulent before even considering potential evidence. Mr Bullock was subjected to intrusive and relentless covert surveillance by private investigators contracted by EML, and to desktop surveillance. Mr Bullock found this situation particularly difficult as he had been trained in physical surveillance by the NSW Police Force and is hyper vigilant. Also, he had a number of death threats made against his life during his employment and considered those to be imminent and real. Mr Bullock found it easy to identify surveillance activities; however, he was unaware of whether the person watching him was a surveillance operative from an insurance company or a criminal who was about to severely injure or maybe kill him. Mr Bullock was **examined by psychiatrists appointed by EML** as part of an independent process in relation to his whole person impairment. He believes the psychiatrists were commissioned by EML to provide favourable medico-legal reports. Further, **EML also challenged the opinion of Mr Bullock's own, well-recognised, psychiatrist with expertise in PTSD,** about his diagnosis of chronic PTSD. The **workers compensation process has exacerbated Mr Bullock's psychiatric injury** causing: **ten admissions to psychiatric hospitals**; **drug and alcohol addiction**; onset of a major depressive disorder; **a serious suicide attempt**; cognitive brain impairment; **trauma and psychological distress for his family members**; and, finally, the destruction of his marriage. It was all the more upsetting as Mr Bullock felt that he has always complied with workers compensation legislation. In 2015, Mr Bullock made a complaint to the chief executive officer of EML about the appalling treatment he had received by the insurer. Mr Bullock's claim was eventually settled following proceedings in the Workers Compensation Commission. **2016**	Similar treatment by a "best practice" insurance industry advocate that DVA has been criticised for. Poor Treatment of Emergency Services worker with PTSD by industry "best practice" insurer. **EML** cited numerous times in the PC draft Report to support case for radical change to DVA.

Evidence	Observation
EML noted its surveillance providers are also subject to the **'highest standards of practice', i**ncluding conforming to EML's Privacy and Information Security Essentials protocol, which requires providers to safeguard the privacy and security of information collected.584 However, this was **disputed by numerous witnesses** who appeared before the committee who were the subject of surveillance.	Best practice workers compensation provider view of its "high standard of practice" disputed by numerous witnesses.
One particularly unseemly example was of a female police officer with a making a claim for a disability benefit. Her treating psychologist recommended that she adopt a hobby to keep her engaged in some way in the community, so she learned how to make nice cakes. She took some photos of those cakes and put them on her Facebook account, and the insurer then relied upon those, among other things, to deny her claim and assert that that was positive evidence of a capacity to run a cake-making business.614	Poor Treatment of Emergency Services worker with PTSD by industry "best practice" insurer.
More generally, **the Fire Brigade Union** of New South Wales stated that the delay in processing claims caused significant distress to workers, and noted that it was during this period that secondary psychological injuries often arise.676 Stakeholders were also concerned about the psychological impact on injured workers of having protracted interactions with insurers. Ms Pullen commented that workers with psychological injuries, such as post-traumatic stress disorder, find dealing with insurers 'traumatic' and expressed concern that scheme agents do not understand or have compassion for workers with these types of injuries.677 Likewise, Kirsty Membreno, Manager Industrial, **Police Association** of New South Wales, argued that a worker with a psychological injury can become increasingly unwell during the dispute resolution process: Putting people who already have a psychological illness through a disputed process where they have to engage lawyers and seek assistance from the association puts a lot more pressure and a lot more stress on them. They do not have access to the treatment and the services that they need immediately because of the cost associated—there is a limit on what they can get through their GP. So they do become probably more unwell through that period.678 **8.42 Review participants noted that workers can receive a secondary psychological injury from their dealings with insurers**.679 Mr Mark Morey, Secretary, Unions NSW, remarked: The prolonged amount of energy and time taken to actually fight the system means that many of these workers then have a secondary psychological injury that compounds their initial injury which makes it almost impossible for them to return to work.680 **8.43** Mr Morey described the behaviour of scheme agents as requiring a worker to fight 'endless circles' of bureaucracy.681	Emergency Services unions view of industry best practice worker compensation insurers. Similar treatment by a "best practice" insurance industry advocate that DVA has been criticised for.

Evidence	Observation
In the most recent performance review, all of the scheme agents were within the **expected range of performance in the financial outcome and premium collection** measures. However, **only four out of five agents were above the expected level of performance in the return to work measure** and **none of the insurers had passed all of the service standards.633**	Getting Affordability and sustainability right does not mean service standards for injured workers are satisfactory.
Unions NSW described the practice as 'perverse'.637 Mr David Henry, Work Health and Safety Officer, Australian Manufacturing Workers Union (AMWU), was similarly concerned: 'We do not necessarily believe that there is a group of people who are sitting around plotting and planning, necessarily, to harm injured workers but we do believe that there are perverse incentives sewn into contracts that are leading to this behaviour.'638 The **Fire Brigade Union** of New South Wales and the **Police Association** of New South Wales were similarly concerned. Ms Claire Pullen, Senior Industrial Officer, Fire Brigade Union of New South Wales, said that she had received anecdotal evidence that **insurers primarily considered commercial imperatives when assessing a workers compensation claim:** … certainly members have communicated to me a view that **insurers reject claims or parts of claims on a commercial basis, taking a punt, essentially, that the worker will give up and go away.639**	Shades of behaviour in "best practice insurers" that was revealed in the Haynes' Royal Commission.
The case studies [in WIRO's annual report] include examples of **insurers overlooking claims for months;** The case studies [in WIRO's annual report] include examples of insurers overlooking claims for months; **punishing workers** for circumstances beyond their control even after providing supporting documentation; failure to pay benefits for a period of 4 months due to **administrative oversight**; and, failure to understand EBA [Enterprise Bargaining Agreement] entitlements. The evidence shows that despite **case managers not being industrial experts, insurers are taking it upon themselves to make industrial decisions**.652for circumstances beyond their control even after providing supporting documentation; failure to pay benefits for a period of 4 months due to **administrative oversight**; and, failure to understand EBA [Enterprise Bargaining Agreement] entitlements. The evidence shows that **despite case managers not being industrial experts, insurers are taking it upon themselves to make industrial decisions.652**	Poor performance, probably worse than current DVA. Lack of understanding of the civilian . How would this translate to the military environment/work environment?
Whatever the case, the committee heard that scheme agents **often treat injured workers as adversaries,** leading Mr Garling to remark that insurers '… take such steps as they think are proper to fight the adversary, being the worker.'	

Evidence	Observation
I received poor guidance and the **insurance company did everything they could to delay the process.** They would request a certain set of documents at a meeting and then never even look at them once they were provided.'663 Injured workers are under a large amount of pressure due to the fact they have had their whole world turned upside down from the injury and then coming to terms with the fact that they may not return to their chosen vocation, then to have a heartless insurer applying pressure for them to jump hoops just to get paid their fair compensation or to have medical treatments approved.'664 '**My experience [with the workers compensation system] … has been the most degrading and humiliating experience of my life.** I expected to be exited with dignity. I deserved to be treated with respect and compassion. I have not … I cannot convey what it has done to me. It has taken a part of my life, dignity, and soul that I do not believe I am ever meant to reconcile.'665	No better than some past DVA cases
The back capture of correspondence between all parties would reveal a staggering amount of inconsistency and questionable actions. There is no uniformity to the adjudication of claims. … **The economic rationale of EML dictates and rewards unscrupulous such behaviour.666**	No better than some past DVA cases.
… there is **irrational decision-making and conduct** across the system. None of it is supporting an injured worker to be supported because they need the time to heal or get back to work if they are ready to come back to work. There is resistance to provide training and support. It is bizarre.667 **8.34** It was also noted that these **inconstancies** increase the potential for conflict in the system. An allied health professional stated: 'The application of the work capacity decision is inconsistent amongst agents and it is too frequently poorly considered, which creates adversarial fallout from workers, employers and it is not good thing for the scheme.'668 It was also noted that these **inconstancies increase the potential for conflict** in the system. An allied health professional stated: 'The application of the work capacity decision is inconsistent amongst agents and it is too frequently poorly considered, which creates adversarial fallout from workers, employers and it is not good thing for the scheme.'668	Inconsistencies. Similar observations made about DVA and VRB, where recommendations are in hand to improve.

Evidence	Observation
We are disappointed to receive evidence of some insurers intimidating and exerting undue pressure on injured workers. It is unacceptable that injured workers should feel pressured to pursue a certain course of treatment or to return to work before they are ready. This kind of behaviour does nothing to facilitate a return to health or encourage a sustained return to work, **thus undermining the objectives of the workers compensation system.** The committee believes that the training framework we recommend below will help to improve the way that individual case managers engage with injured workers, and to improve consistency in decision-making. **8.47** The committee notes concerns that some scheme agents appear to be delaying access to entitlements, including medical treatment and weekly payments. Again, we are disappointed to receive this evidence, as **this behaviour does not support an injured worker's return to work nor does it promote the most efficient use of the scheme's resources**. The evidence clearly indicates that early intervention is a cost-effective means of injury treatment. We urge scheme agents to **use rehabilitation and other treatment services, where appropriate, during the early stages of injury management** to support an injured worker's return to health. **8.48 The committee understands that there can be significant consequences for the wellbeing of injured workers who experience prolonged interactions with scheme agents. It is concerning that a system designed to support an injured worker's return to health may in fact exacerbate an existing psychological condition or even cause an additional injury.**	Committee Finding. indicates that industry best practice worker compensation insurers no better than DVA.