



Patron-In-Chief: His Excellency General the Honourable David Hurley AC DSC (Retd)

TPI FEDERATION AUSTRALIA

"Disabled in our Service United in our Cause"

PO Box 450, ERINDALE, ACT 2903

1st May 2020

Senator Abetz
Chair Legislation Committee,
Senator Kitching
Chair References Committee,
Foreign Affairs, Defence & Trade Legislation Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senators

Introduction

Thank you for the opportunity to respond to the complaint laid out in the Australian Army Training Team Vietnam Association (WA Branch) Inc's (AATTVA) submission dated 1st April 2021.

The Australian Federation of Totally and Permanently Incapacitated Ex-Servicemen & Women (TPI Federation) will be addressing the subject matter of the TPI Compensation Payment and related issues that are presented by the AATTVA in a separate submission to the presented to the Senate Inquiry into TPI Payment (Special Rate of Disability Pension).

The two paragraphs that directly relate to the TPI Federation and its Executive and Board, in the AATTVA submission, will be addressed in this response.

Third Paragraph Response

The third paragraph of the AATTVA submission that relates to the TPI Federation and the President, Ms Pat McCabe OAM, within the AATTVA submission states –

"The falsehood as told to Senators and others at the 2017 Senate Inquiry into Veteran Suicide, of which you would be fully aware, and in relation to the TPI Federation's President statement that there is no distinction between Peacetime and Warlike service and that TPis had agreed to such a policy was a total fabrication by the TPI Federation President, Ms Pat McCabe OAM to which she has since admitted that she lied to the Senate Inquiry."

"no distinction between Peacetime and Warlike service"

1. With regard to the 'References Committee's Inquiry into Veterans' Suicide' hearing, in Perth, on the 5th May 2017, I ask that the Members of the Senate Reference Committee consider that the generalised noun of "Veteran" has been utilised by many, for many decades.
 - a. There have been many variations in the use of the word 'Veteran' over the past decades. In the civilian population there are football veterans and, in the arts community, there are movie-star veterans along with many other variations. In the Veteran community you have "War Veteran", "Contemporary Veteran",



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PRESIDENT

Ms Pat McCabe OAM

VICE PRESIDENT

John Reeves

SECRETARY

Shayne Eades



“Young Veteran”, “Vietnam Veteran”, the generic term that is generally used for all ex-Service personnel within the Veteran Community is “Veteran” and this encompasses all Veterans.

- b. There have been many, many discussions – formal and informal – over the decades on just ‘*What is a Veteran*’. This is constantly prefaced with the full acknowledgement of the fully legislated definition of a ‘*Veteran*’. The TPI Federation has never discriminated against any Veteran, let alone a TPI who may, or may not, have Operational Service which is in accordance with the TPI Federation’s Constitution Objectives (*Attachment A*). A composite extract of a number of TPI Federation Congress minutes is provided (*Attachment B*) as further confirmation of this.
- c. Daily Telegraph (*Attachment C*) of August 8, 2015 reported
*“According to the South Australia, Queensland and Victorian State Branches of the RSL the following is the official line:
“The definition favoured at the moment is that anyone who has served in any of the services at any time is a Veteran — this is to ensure that no one is excluded from membership of the RSL or from receiving entitlements assistance through DVA. Entitlements are a completely different matter and being called a ‘Veteran’ does not immediately transfer entitlements to the individual. The RSL has not wanted to discriminate between service members because it is important to us that we engage with everyone who has served regardless of where, when and for how long.”*
- d. The TPI Federation submission to *Senate Foreign Affairs, Defence and Trade Committee – Inquiry into Suicide by Veterans and Ex-Service Personnel* dated November 2016¹ which stated on page 4 –
*“This is discriminatory and a failure to recognise that a non-operational TPI suffers the same consequences as an operational TPI even to the extent of not having access to a service pension at age 60, but must rely on a Centrelink Disability Support Pension. A salient point, worth remembering, is more service people have been killed or injured in non-operational theatres since the Vietnam War; by example the Black Hawk tragedy, the WESTRALIA incident and other numerous non-operational occurrences that have caused fatalities or injury. The TPI takes the view that

A TPI is a TPI!”*
- e. The then Veterans’ Affairs Minister, Dan Tehan MP, on the 8th November 2017 (*Attachment D*) released a Joint Communique – Veterans’ Ministers’ meeting announcing that following a joint State/Territory/Federal Veterans’ Ministers meeting which stated –
“It was agreed that a veteran would be defined as ‘a person who is serving or has served in the ADF’. Ministers agreed use of the term veteran should not be limited by the definitions contained in existing legislation.”

The TPI Federation’s endorses that any definition of the type of Service an ADF Member has given, should have no bearing on the appropriate care and benefits available to Veterans for their incapacities that they received as a result of their Service. In addition, the TPI Federation endorses the legislated definition is, of course, appropriate for honours, medals and relevant allowances, but should in no way detract from the Government’s obligation to care for all current and ex-Serving ADF Members for all medical condition/s, as a result of their Service. What this means for all Veterans, for *any particular injury* or illness suffered in Service, is that there should be NO distinction in terms of treatment or benefits.

The TPI Federation’s Constitution clearly defines a “TPI” as –

“TPI” means a person who is eligible for and granted or in receipt of the special rate of pension referred to in Section 24 of the Veteran’s Entitlements Act 1986 (as amended), or the equivalent pension referred to in Section 199 of the Military Rehabilitation and Compensation Act 2004 (as amended) or any subsequent Act.

¹ TPI Federation Senate Suicide Inquiry submission – Nov 2016 – <https://bit.ly/2QogRR7>

There is no descriptive distinction or difference between ‘Operational’ or ‘non-Operational’ or ‘War-Veteran’ or ‘non-War-Veteran’. The Constitution does not have a definition for ‘Veteran’ as it has never been necessary to include it.

Fourth Paragraph Response

The fourth paragraph of the AATTVA submission that relates to the TPI Federation within the AATTVA submission states –

“Our Association wants to take a simplistic approach to the payment of the Special Rate pension. For years now there have been submissions made to various Commissions, Inquiries, hearings etc with plenty of graphs, charts, figures from nearly a century ago and claims and counter claims from all parties concerned. The TPI Federation, as an example, trots out the same submission time and time again and although rejected repeatedly, they expect that their submission must be the one accepted.”

The TPI Federation endorses all the previous submissions, which have never been refuted, including all the graphs, charts and figures that remain current. The graphs, charts and figures remain the same as the research conducted by the TPI Federation has, to date, remained undeniable by any of the Reviews that have occurred over the last few years. The failure of previous Reviews not agreeing to the restoration of the TPI Compensation payment is not, and never has been, a rejection of those submissions.

Fifth Paragraph Response

The fifth paragraph of the AATTVA submission that relates to the TPI Federation within the AATTVA submission states

“Bear in mind that the TPI Federation, although claiming to represent 28,000 TPIs, they only have a membership of around 25% of all TPIs. The AATTVA Association WA Branch, are in the majority, TPIs but many are not members of the TPI Federation as we wish to fight our own battles.”

The TPI Federation does claim to represent ALL TPI/SRs even though the financial membership of the State/Territory TPI Associations don’t reflect the total number of Totally and Permanently Incapacitated (TPI) (under VEA 1986), including Special Rate (SR) (under MRCA 2004), DVA compensation recipients. As at 31st December 2020² the total number of TPIs were 27,361 having declined by a mere 2,117 since 2010. The number of SRs is not known exactly with the last known number, as advised by DVA, being ~400 Veterans. The TPI Federation does not differentiate between those who choose to join the various State/Territory TPI Associations and those who don’t. It is always expected of Government that any advocacy conducted by the TPI Federation is fully inclusive of all TPI/SRs.

Eleventh Paragraph Response

The eleventh paragraph of the AATTVA submission that relates to the TPI Federation and the President, Ms Pat McCabe OAM, within the AATTVA submission states

“The following is an extract the KPMG Report into Review of TPI Payments. Page 4, “The Service Pension is also considered a service replacement benefit for TPI veterans (i.e. compensation for veterans). This is consistent with insurance principles, and the observation that early access to a Service Pension on disability (i.e. before the Service Pension age of 60) represents compensation for lost income and is not considered welfare.” This is contrary to what the view of the TPI Federation President who has stated, “it is welfare”. Once again, a personal view and not that of TPIs across the country who accept the KPMG findings, that it is Compensation.”

² DVA Statistics – page12 – <https://www.dva.gov.au/sites/default/files/files/publications/datastatistical/treatmentpop/tpop-dec2020.pdf>

The TPI Federation conducts twice-yearly National meetings (not including 2020 during the COVID restrictions), and over the last eight years, since 2013, the TPI Federation's advocacy for a fair and equitable TPI/SR disability compensation has been endorsed to continue, by the TPI Federation's Directors, at each of those meetings. This view of the TPI Federation Board has been reaffirmed and the Directors endorse the TPI Federation's rejection of the KPMG viewpoint. The TPI Federation has consistently stated that 'welfare' is not 'compensation'.

Yours sincerely

Ms Pat McCabe OAM
President

ATTACHMENT A

TPI Federation's Constitution Objectives

4. OBJECTIVES

The objectives for which the Federation is established are:

- a. To represent the interests of the Members at the national level and act as the only conduit to the Federal Government for the consolidated needs of the Members;
- b. Safeguarding the interests of and securing just and equitable treatment for TPIs and their dependants;
- c. To raise funds from Members by Membership fees as determined from time to time by the Board or by other means, and to apply such funds for safeguarding the interests of and securing just and equitable treatment for TPIs and their dependants;
- d. To co-operate to such an extent, as the Board shall deem fit, with similar associations in other parts of the Commonwealth and the world;
- e. To apply for and obtain any special Act of Parliament or other benefit calculated to promote or advance the interests of the Members of the Federation;
- f. To take such lawful steps by personal or written appeals, public meetings, radio broadcasts, television programs or otherwise as may from time to time be deemed expedient for the purpose of procuring contributions to the funds of the Federation in the shape of donations, annual Membership fees or otherwise as the Board may deem desirable for the promotion of its objects;
- g. The Federation shall be non-political and non-sectarian and shall confine itself to the care, maintenance, welfare and special interests of TPI's; and
- h. Such other objectives as the Board considers appropriate from time to time.

ATTACHMENT B

TPI Federation – Minutes Extracts

Minutes – Sep 2013

Pat McCabe asked about pharmaceutical reimbursements for all TPI's **not just operational servicemen/women** and if there was any update on that issue. Mr Ronaldson advised that this is a cost issue that needs to be addressed.

Minutes – Sep 2014

ADSO/Stand To – David Jamison

The current headline objectives are;

- Fair indexation of all military superannuation.
- **Equitable treatment of the veterans disability pensions** (MRCA payments included)
- Improvements to the integrated people support system
- Adoption of either a military accord (charter) or a set of protocols

Discussion and vote on ADSO

The VVFA and the Partners of Veterans have made it quite clear that they still offer the TPI Federation full support regarding the indexation issue. Where are the members of ADSO when the Federation fought for the DFISA, the members **without qualifying service**?

Minutes 14-16 Sep 2015

Address by Simon Lewis – DVA Secretary

1. The President welcomed Simon Lewis PSM to the congress and asked that he address the Directors – **see attachment 12**. Mr Lewis then asked that Major General Craig Orme AM CSC address the Directors – **see attachment 13**. A number of subjects were discussed including claim processing times, Family Law Courts access to TPI funds, time taken to access health records, **pharmaceutical reimbursement for non-operational TPIs**, TPI funds been accountable for MyAgedCare, DVA grants for website production, using ADF service number for all DVA matters, delay in reimbursement of medical costs and travel claims and VLOs in tier one hospitals. The President thanked Mr Lewis and Mr Orme for their contribution to the conference and their attendance.

Minutes – Mar 2016

2.3 Priority Action List

2.3.1 Income Replacement Inadequacy Campaign

Leave it as Priority 1 requiring ongoing action.

2.3.2 ADSO Liaison for MSBS and DFRB Indexation for Under 55s

Ongoing support

2.3.3 Pharmaceutical Reimbursement for Non-Operational TPIs

Ongoing campaign

2.3.4 Aged Care TPI Counted as Income for Non-Operational TPIs

Ongoing campaign

2.3.5 Heart Health

Non-operational TPI are currently precluded and this should continue to be monitored.

Action: Priority Items 3, 4 and 5 for **Non-Operational TPIs** and Heart Health be collated and continue to be monitored.

2.3.10 Degradation of Health Funding and Gold Card Acceptance

Pat Bright requested that the funding of health assessments be monitored and brought to the attention of Simon Lewis, Secretary of the DVA.

ACTION: President to write to Simon Lewis to have health assessments monitored

Chris Richards requested that the degradation of the Gold Card by medical practitioners be monitored.

Leon Eddy stated that the TPI income was being treated as an income when entering a nursing home.

It was clarified that this only occurred for non-operational TPIs and this is why it was necessary to have a DVA report.

3.4 ASPEN Foundation – Andrew Condon

Mr Condon was welcomed to the Congress and invited to make a presentation on the ESO mapping project.

Mr Condon informed the members that he had 27 years Army service and his operational service was in Iraq and other Middle East locations. After service he was the CEO of Legacy for eight years, as well as serving other veteran interests. After leaving Legacy he was invited to head up the ESO project.

Questions & Comments

Mr Leon Eddy (SA) stated the government's stance on delineating between veterans with or without operational service needs to be taken into account. Also, due to the lack of liaison officers between government departments there is confusion when transitioning between services, which also needs to be taken into account.

Minutes – 19-21 Sep 2016

1.15.3 Non-operational TPI issues: Pharmaceutical Reimbursement, Aged Care TPI Counted as Income, Heart Health program.

- An issue was raised in relation to non-operational TPIs needing to access pensions through Centrelink including under 65 accessing disability service pension, and over 65s accessing aged pension.
- A further issue was raised in relation to the division between operational and non-operational TPIs. It was suggested and that this division should be removed, and this issue be raised to number two priority.
- A discussion was held in relation to difference in benefits received by TPIs, qualifying for and issues surrounding same.

2.2.113 Ray Williams asked if Ms Rishworth was aware of the disparity between the TPIs when it comes to operational and non-operational service.

Amanda stated she has read a little but requested more information. She outlined her knowledge and it was confirmed that that was the correct situation.

Ray raised the question why is Government still continuing two tiers of TPI and explained the disadvantage.

Pat McCabe advised that she can send a copy of the reviewed action list and outlined them in summary: Pharmaceutical benefits, aged care TPI is counted as income for non-operational TPI Veterans, DVA heart health program not available for non-operational, and need to go to Centrelink for non-operational TPI.

3.10.11.1 Chris Richards raised the issue regarding non-operational TPIs being referred to Centrelink to apply for disability pension, and the suggestion that it can be taken care of through DVA. Chris outlined details of the issue and suggested solution.

Simon expressed interest and took under advisement.

Minutes – 20-22 Mar 17

DVA Commemorations

Mr Paul Nothard attended the meeting via Zoom and spoke to his presentation, noting the following key points:

- The role of the Commonwealth War Graves Commission.
- Options for private and official commemorations and eligibility criteria, determined by Repatriation Commission. TPI pension recipients whose death is operational service-related have immediate eligibility.
- Veterans encouraged to arrange pre-planning of commemorations.
- Brochures and information sheets have been distributed to Members.

Statement read at Federation Congress – Mar 2021

The TPI Federation has never misrepresented the legitimate, legislated definition of a 'Veteran'. The definition within all 3 Veteran's legislation states clearly that an ex-Service ADF Member has been referred to as a 'Veteran'

All Veteran's legislation still remain defined as a "Veteran" as –

*“A **Veteran** is a person (or deceased person) who has:
rendered **eligible** war service, or. is a member of the defence forces who on or after 31
July 1962 was outside **Australia**, but not on operational service, who was killed or injured
by the action of hostile forces.”***

Since the inception of the concept of “A Veteran is a Veteran” was first canvassed as a concept when the then Regular Defence Force Welfare Association (RDFWA), in 2003, initiated the “Military Accord” proposal. This proposal was finally accepted by Government, and legislated, under the new title of the “Military Covenant” in 2019.

Congress – Mar 2021 Presentation

“WA Senate Veteran Suicide Inquiry Hearing Sitzings: Pat McCabe advised of her attendance at the Hearing and outlined the following:

1.19.1 Pat was advised that the Suicide Hearing would be held in Perth in late March/early April. It was possibly as a result of Jock O’Neill complaint and submission.

It was agreed that the Pat McCabe attend the Senate Hearing on behalf of the Federation.

Motion - 54-20/03/17 20-Mar-17 that Pat McCabe, Ray Williams and Ray Pearce attend the WA Senate Suicide Inquiry Hearing in late March/early April be accepted

Moved: Leon Eddy (SA) Seconded: John XX Resolution: CARRIED”

Having listened to the recording it is unintelligible as to who seconded this motion.

There were 3 ‘John’s who attended that meeting – John Reeves (Tas), John Sheehan (Vic) and John Poland (Vic)

ATTACHMENT C

Daily Telegraph – August 8, 2015

RSL defines ‘veteran’ as anyone who has served in a uniform

FOR decades the definition of a war veteran has generated heated arguments in RSL clubs, pubs and lounge rooms across the nation. Now there’s a line in the sand.

Ian McPhedran

AUGUST 8, 2015 11:00PM

Veteran debate ... What makes a veteran a veteran? A line has been drawn in the sand. *Source: News Limited*

WHEN is a veteran not a war veteran?

For decades that question has generated heated arguments in RSL clubs, pubs and lounge rooms across the nation.

Finally the Returned and Services League (RSL) appears to have drawn a line in the sand and decided that anyone who has served in a military uniform can be referred to as a “veteran”.

Given that the full term is actually “war veteran” some who served in harm’s way overseas are offended that even those who have never left Australian shores can adopt the hallowed moniker.

The law as defined by the 1986 Veterans Entitlement Act is quite clear and divides service categories into “defence”, “war” or “warlike.”

Ask many veterans who have seen action against the enemy and they will say that the term “veteran” should be reserved for them and their ilk.

Others don’t care and are happy to march alongside other “veterans” on Anzac Day who served exclusively in Australia or on relatively benign deployments such as Kashmir or the Sinai.

According to the South Australia, Queensland and Victorian State Branches of the RSL the following is the official line:

“The definition favoured at the moment is that anyone who has served in any of the services at any time is a Veteran — this is to ensure that no one is excluded from membership of the RSL or from receiving entitlements assistance through DVA.

Entitlements are a completely different matter and being called a ‘Veteran’ does not immediately transfer entitlements to the individual. The RSL has not wanted to discriminate between service members because it is important to us that we engage with everyone who has served regardless of where, when and for how long.”

RSL National President Ken Doolan told News Corp that the term “veteran” had meaning under the Act, but many younger veterans don’t like it because it makes them sound old.

Under the Act there is no specific definition, but only those who have “warlike” service can apply for certain entitlements.

For example those who have had operational “warlike” service can apply for a Veterans Gold Card at age 70 when those who hadn’t deployed could not.

“We don’t want to get hung up on words and we want to be as inclusive as possible,” Admiral Doolan said.

“No one size fits all and really people can call themselves what they want.”

Iraq War Veteran Aaron Gray, who served seven months as a gunner on a light armoured vehicle in 2006-07 said he has always believed the “veteran” term applied only to those who had deployed on operations.

“I have always felt a bit odd when people who have not deployed overseas have referred to themselves as a veteran,” Mr Gray said.

“For me it a term reserved for someone who has served their country in conflict.” President of the Queensland Branch of the Vietnam Veterans Federation Malcolm Wheat supported the RSL position.

“During the 1970s and 1980s there was a long period when there were no overseas deployments. Should those people have their service to the country reduced? I don’t think so,” he said.

“Anybody who serves deserves recognition.”

Mr Wheat said it was time to breakdown the “them and us” attitudes in the veteran community.

ATTACHMENT D

Veterans' Affairs Minister, Dan Tehan MP – Joint Media Release – 8th November 2017

8/31/2021

Media release - JOINT COMMUNIQUE - Veterans' Ministers' meeting



**The Hon Dan Tehan MP
Minister for Veterans' Affairs
Minister for Defence Personnel
Minister Assisting the Prime Minister for Cyber Security
Minister Assisting the Prime Minister for the Centenary of ANZAC**

8 November 2017

JOINT COMMUNIQUE - Veterans' Ministers' meeting

The second Roundtable of Ministers responsible for veteran issues has reinforced the need to coordinate effort across all levels of government to ensure the successful transition of those Australian Defence Force (ADF) personnel moving from military to civilian life.

Issues discussed at the Roundtable included improved transition, mental health and suicide prevention, improving employment outcomes for veterans, veteran accommodation and assisting veterans who had been incarcerated.

The Roundtable was updated on initiatives in the Federal budget to enhance veteran rehabilitation and transform the Department of Veterans' Affairs (DVA) as well as the expanded package of mental health support worth \$31 million that was announced as part of the Government's response to the Senate Inquiry into veterans' suicide.

A commitment by all governments was given to information sharing across agencies to assist in improving transition across all jurisdictions.

States and Territories agreed to examine the feasibility of collecting data on veteran incarceration and to promote non-liability health care for any mental health condition to those who have served one day in the full-time ADF.

As a step towards destigmatising Post Traumatic Stress, Ministers agreed to refrain from using the term disorder and agreed to encourage their ministerial health colleagues to do the same.

The Roundtable supported the establishment of a Veteran Support Services Accreditation Association that would enable Ex Service Organisations delivering services to veterans to obtain formal accreditation.

The Roundtable reached consensus on a common definition of veteran that is to be recognised by all jurisdictions. It was agreed that a veteran would be defined as 'a person who is serving or has served in the ADF'. Ministers agreed use of the term veteran should not be limited by the definitions contained in existing legislation.

Ministers agreed there needed to be a question about veterans in the next Australian Census. This will assist all levels of government to better support services and support to veterans and their families.

Ministers agreed to establish a working party to explore the harmonisation of veterans' concessions across jurisdictions.

The Ministers also agreed to mark the 100th anniversary of Armistice Day in 2018 with a nation-wide campaign to acknowledge a minute's silence at 11am.

The next Veterans' Ministers' Roundtable in 2018 will occur in conjunction with the Transition Symposium and the Invictus Games in Sydney.

Federal Minister for Veterans' Affairs the Hon Dan Tehan MP, Minister for Veterans Affairs New South Wales the Hon David Elliott MP, Minister for Veterans Victoria the Hon John Eren MP, Minister for Housing, Veterans Issues and Youth Western Australia the Hon Peter Tinley AM MLA, Government Whip South Australia the Hon Tom Kenyon MP, Parliamentary Secretary to the Premier, Community and Veterans' Affairs Tasmania Ms Sarah Courtney MP, Minister for Veterans Australian Capital Territory Mr Gordon Ramsay MLA and Assistant Minister for Veterans Affairs representing the Chief Minister Northern Territory Mr Tony Sievers MLA attended the Roundtable. Given Queensland is in caretaker mode, Queensland was represented by the Department.