Inquiry into the Care of ADF Personnel Wounded and Injured on Operations

Name: Name Withheld

Joint Standing Committee on Foreign Affairs, Defence and Trade

Senator Mark Furner
Chair
Joint Standing Committee on Foreign Affairs,
Defence and Trade – Defence Sub Committee
Parliament House
CANBERRA ACT 2600

SUBMISSION FOR THE INQUIRY INTO THE CARE OF ADF PERSONNEL WOUNDED AND INJURED ON OPERATIONS

Dear Senator Furner and committee

1. Whilst the debate over exactly what the term 'veteran' means, for the sake of this discussion veteran relates to any person who has been wounded or injured as a result of service in the Australian Defence Force (ADF). The contents of this submission are personal observations and views only.

2. whilst deployed to Afghanistan and was evacuated back to Australia. I have undergone rehabilitation Subsequently I have submitted a Department of Veterans Affairs (DVA) claim After observing other ex and serving veterans interactions with DVA, and my own significant problems with getting a fair permanent impairment assessment, I have noted serious issues with the governing legislation and DVA staff. Whilst I am a firm believer in systems and structure, and given that no system will ever be perfect, I am concerned as the basic framework of DVA is not geared to provide adequate support to the widening profile of veterans.

3. This submission has been written quickly after finding out about this inquiry last week and as such, is missing key physical evidence to back up some claims. I therefore ask that it be used as a start point for further and deeper investigation into the DVA system. I will briefly outline the key issues and then provide personal observations, references to key legislation and recommendations to assist the senate in determining areas for further investigation.

4. The key issues currently preventing fair treatment of veterans when submitting claims and accessing key support from DVA are as follows:

A. Submission of claims is a confusing and difficult process for veterans to undertake. This process is not helped by undertrained DVA staff that have trouble relating to veterans circumstances.

B. Permanent impairment assessments and surrounding legislation is geared to cater for senior veterans and fails to appropriately incorporate the younger and middle generations who have had vastly different warlike and non-warlike experiences and subsequent needs.

C. Rehabilitation services (both ongoing physical and vocational) are difficult to source and be approved, and integration with serving defence veterans does not occur.

Submission of claims

5. DVA staff are not forthcoming in providing feedback during the submission phase. Claimants can wait for weeks and in some cases months to hear back from DVA staff just to find out that their claim has been on hold all this time due to a section of paperwork incorrectly completed or that DVA needed further evidence on top of the initial requirement to further substantiate claims.

Recommendations:

A. Review the workload of all DVA staff and if required increase the number of employed claims officers. Make DVA staff fully responsible for the claims they are dealing with. Inculcate a sense that they are dealing with peoples lives, not just a claim for support.

B. Employ one key DVA staff member as the coordinator for each claimant who then provides oversight of all aspects of the veterans claim. This staff member should be accountable for anything that goes wrong and needs to ensure that all the departments of DVA are working together to support the veteran throughout their claim and if required subsequent ongoing treatment. This will also reduce the number of points of contact a veteran needs throughout their claim.

6. Statement of principals under the Military Rehabilitation and Compensation Act are restricting the types of injuries being accepted as a result of military service. Due to the extreme nature of military service some injuries do not fall neatly under the required Statement of Principals. This leads DVA staff hamstrung by restrictive legislation to place veterans into the ‘most suitable legislative fit’. A common example is chronic back pain and ‘bulging discs’. Veterans are applying, not fully understanding the process because DVA staff do not provide proactive support, and then being immediately categorised into inappropriate sections. An automatic ‘best legislative fit’ for back injury is “lumbar spondylosis” which then results in the veteran receiving no support as the disease is hereditary.

Recommendations:

A. Review and overhaul the Statement of Principals to allow a more subjective assessment to be made.

B. Make the proofs veterans need to exhibit under Statement of Principals clearer to understand and easier to access or remove the Statement of Principals requirement and return to the Safety Rehabilitation and Compensation Act 1988 methods.

C. Develop a clause under each injury to allow for a subjective assessment to be made to incorporate veterans who may not meet the specific requirements of the Statement of Principal but still have been injured/wounded whilst rendering effective ADF service.

7. There are limited DVA staff veterans at the coalface integrating with the ADF and offering help. 'On base advisors' are scarce and hard to communicate with. Returned and Services Leagues advocacy services are often staffed by old soldiers who mean incredibly well, but who are older and out of touch with new practices. Better advocacy services are often expensive and in the extreme veterans are approaching and using legal services to assist them in accessing their basic entitlements. Veterans should not be forced to pay money just so they can understand a process DVA has implemented, and get help having their claims lodged.

Recommendations:

A. Provide more DVA staff at ADF bases.

B. Conduct DVA 'road shows' to serving and ex-serving ADF members describing the entitlements available, what to do in the event of an injury/wounding, how to access help and where DVA fits in with all other support agencies.

C. DVA to provide more transparency and work more closely with advocacy services to ensure they are providing correct and appropriate support to claiming veterans.

8. DVA staff, who utilise the MRCA, VEA, Statement of Principals etc, for the majority, are civilians. These people have no military service and do not understand the basic roles that veterans of the ADF have conducted. They do not understand or have an appreciation of what veterans have been though and as such do not apply the legislation in a fair and balanced manner. Some DVA staff also have trouble understanding and implementing the very legislation that governs their roles. This results in major delays for veterans accessing needed support and in worse circumstances completely prevents the veteran obtaining DVA support without substantial lobbying and redressing inappropriate decisions made without knowledge of the full legislation.

Recommendations:

A. Provide DVA staff with more thorough training and testing for their role.

B. Conduct currency training and testing of DVA staff to ensure that they are up to date with changes in legislation and can appropriately apply it.

9. Provide DVA staff with opportunities to understand who veterans are and what they have been through by conducting forums and conferences which incorporate serving and ex-serving veterans. ADF officers could also be posted into key areas of DVA to provide the final signature on claims and assist the civilian workers in understanding the 'grey' areas of a veterans claim, this is a system employed within Defence Force Recruiting and works well.

Permanent impairment assessments

10. The Guide to Determining Impairment and Compensation (GARP M), which provides a DVA staff veteran with the assistance of a medical specialist with the guidelines to rate a veterans impairment, is geared towards an ageing population of veterans and does not cater for younger veterans with vastly different lifestyles and requirements. These issues are only to highlight that there are significant problems and are not a complete list.

11. The physical assessment conducted by a DVA chosen civilian doctor, does not provide enough information about military service, and does not cater for the higher rates of physical pursuits conducted by Australian Defence Force veterans. For example, when assessing 'normal range of movement' for a joint takes into account medical evidence from the general population. The average 'normal range of movements' will be greatly higher if the sample was isolated to serving ADF veterans. This means that when a doctor assesses a veteran (potentially sitting in the 'elite athlete' category), the veteran is immediately at a disadvantage because they may have lost half of their personal range of movement but they still have a full range of movement when compared with the civilian average and as such not entitled to any support.

Recommendation:

A. Greater emphasis needs to be placed on when the injury or wound occurs in a veteran's life. All in-service veterans should have their employment capacity assessed by a military doctor. Those veterans being discharged or have been discharged should be assessed by a civilian specialist and should incorporate what their career opportunities were prior to injury/wounds and then what they are capable of doing now their injuries have stabilized.

12. Ratings tables used within the GARP M process do not allow for a 'subjective' assessment of the veterans functional abilities to be made. The most extreme example in the GARP M can be found in Chapter 22 under "Lifestyle Rating".

13. Table 22.3 on page 218 of the GARP M provides the DVA assessor the framework of which to allocate a component of lifestyle rating place veterans into distinct categories. To achieve a rating of FOUR a veteran must be:

A. Unable to take part in formerly favoured recreational pursuits, leisure and community activities, but less physical activities are possible, for example:

i. *restricted to generally non-active interests (eg music, art, stamp or coin collecting, attending clubs, etc); and*

ii. *unable to participate in accustomed activities (eg camping, going for long walks, fishing, voluntary activities such as meals on wheels).*

14. Formerly favoured recreational pursuits of younger veterans often include higher performance sports such as, parachuting, rock climbing, adventure racing, marathon running, competition rugby, kayaking to name a few. So even if a younger veteran cannot undertake any formerly favoured recreational pursuits however will be dropped down to a lower rating because they can still go for a walk and participate in meals on wheels. I would suggest that

even highly disabled persons confined to wheelchairs could volunteer for meals on wheels. A soldier who has lost both his legs and received prosthetics could still go camping, go on walks, and volunteer for meals on wheels, but because of the restrictive legislation aimed at an older and frailer veteran, this young veteran is now entitled to less just because they were younger when injured.

15. Tables 23.1 and 23.2 on pages 224 – 227 of the GARP M provide the DVA assessment officer to determine a compensation factor which results in a monetary payment. This table requires the combination of both the lifestyle effects and the level of impairment. The grey columns provide the accepted ‘average’ ratings, so it is expected for someone with impairment ratings of 0 – 15 percent then their lifestyle rating should be zero or one. This means that any veterans who have an impairment rating between zero and 15 immediately come under scrutiny if their lifestyle rating is higher than one.

16. Given that the process to determine lifestyle effects is geared at much older veterans of the veteran communities, younger veterans who have been through horrific incidents have incredible difficulty proving the subjective lifestyle ratings beyond the grey averages. Whilst some younger veterans are lucky enough to regain a good level of physical ability after wounding or injury, the DVA process is geared such that its missing recognising the huge impact on a young veterans life these injuries have and are having.

Recommendation:

A. The VEA, MRCA, GARP legislation and DVA procedures need to be overhauled with input from the entire serving and non-serving veteran community. Focus needs to be widened to support a wider variety of veterans in different stages of life who need differing ranges of support.

Rehabilitation Services

17. Whilst these services exist, locating information on exactly what services are available is difficult and not forthcoming from DVA staff. Current factsheets from the DVA website are light on information and don’t give the veteran a thorough understanding of what they could be entitled to. This is also a long drawn out process with younger veterans who don’t understand the system or can express themselves articulately often giving up on their claims due to the many administrative rejections.

Recommendations:

A. Overhaul the DVA website so that information is readily available and easily understood. Provide examples of training opportunities and courses. Display all the vocational support a veteran could obtain.

B. Provide DVA staff with training on who veterans are and what they have been through so they can better tailor information and provide more meaningful engagements.

18. Current DVA vocational rehabilitation does not support all younger veterans obtaining meaningful employment. Whilst some veterans will have career goals focused on short-term vocationally-based training and on-the-job training, however younger veterans who cannot undertake physical occupations due to the extent of their wounds and injuries are missing out on vital support. These veterans are asking for higher level education such as bachelor degrees, diplomas and potentially trade training. Of which support to achieve these goals through DVA is either limited or unattainable due to the extent of this scheme.

Recommendation:

A. Amend legislation to incorporate a wider variety of educational options for veterans. Provide support such that a veteran can obtain education in any field so that they can move on in their life after being medically discharged from the ADF as a result of a service injury/wound.

19. Integration with the ADF to assist in the ongoing care of military veterans is limited. Whilst under the current Veterans Entitlement Act (VEA) and the MRCA it states that a rehabilitation provider for a currently serving veteran is the appropriate military service chief. Whilst initially in a veteran's recovery this is appropriate, later in the long term and ongoing care DVA has scope to provide services the ADF cant. Rightfully so, the ADF is geared to rehabilitate veterans back into a condition to either continue service in a capacity, or discharge into the care of DVA. Once a wounded or injured veteran has rehabilitated to the point of continued service, military support (rightfully so due to budget constraints and achieving the service's overall mission) returns to pre-injury/wounding type care.

20. Both the ADF and DVA have an opportunity to work together to provide ongoing support that falls outside the scope of the ADF, but does not impact on the operational readiness of a serving veteran. This could include specific ongoing speciality physiotherapy including Yoga and Pilates and/or purchase of physical equipment that assist in the long term stability of a veterans injuries. All this support could be accessed by the serving veteran in their own time as to not impact on ADF service. Whilst not a necessity to maintain current fitness these are things that will assist the overall wellbeing of a veteran and maximise the length of time they can enjoy good health and continued service. This is a preventative measure, not a reactive method.

Recommendation:

A. Investigate the extent of support the military provides to serving veterans and amend legislation so that DVA can offer support beyond this scope.

Collated Recommendations List:

A. Review the workload of all DVA staff and if required increase the number of employed claims officers. Make DVA staff fully responsible for the claims they are dealing with. Inculcate a sense that they are dealing with peoples lives, not just a claim for support.

B. Employ one key DVA staff member as the coordinator for each claimant who then provides oversight of all aspects of the veterans claim. This staff member should be accountable for anything that goes wrong and needs to ensure that all the departments of DVA are working together to support the veteran throughout their claim and, if required,

subsequent ongoing treatment. This will also reduce the number of points of contact a veteran needs throughout their claim.

C. Review and overhaul the Statement of Principals to allow a more subjective assessment to be made.

D. Make the proofs veterans need to exhibit under Statement of Principals clearer to understand and easier to access or remove the Statement of Principals requirement and return to the Safety Rehabilitation and Compensation Act 1988 methods.

E. Develop a clause under each injury to allow for a subjective assessment to be made to incorporate veterans who may not meet the specific requirements of the Statement of Principal but still have been injured/wounded whilst rendering effective ADF service.

F. Provide more DVA staff at ADF bases.

G. Conduct DVA 'road shows' to serving and ex-serving ADF members describing the entitlements available, what to do in the event of an injury/wounding, how to access help and where DVA fits in with all other support agencies.

H. DVA to provide more transparency and work more closely with advocacy services to ensure they are providing correct and appropriate support to claiming veterans.

I. Provide DVA staff with more thorough training and testing for their role.

J. Conduct currency training and testing of DVA staff to ensure that they are up to date with changes in legislation and can appropriately apply it.

K. Provide DVA staff with opportunities to understand who veterans are and what they have been through by conducting forums and conferences which incorporate serving and ex-serving veterans. ADF officers could also be posted into key areas of DVA to provide the final signature on claims and assist the civilian workers in understanding the 'grey' areas of a veterans claim, this is a system employed within Defence Force Recruiting and works well.

L. Greater emphasis needs to be placed on when the injury or wound occurs in a veteran's life. All in-service veterans should have their employment capacity assessed by a military doctor. Those veterans being discharged or have been discharged should be assessed by a civilian specialist and should incorporate what their career opportunities were prior to injury/wounds and then what they are capable of doing now their injuries have stabilized.

M. The VEA, MRCA, GARP legislation and DVA procedures need to be overhauled with input from the entire serving and non-serving veteran community. Focus needs to be widened to support a wider variety of veterans in different stages of life who need differing ranges of support.

N. Overhaul the DVA website so that information is readily available and easily understood. Provide examples of training opportunities and courses. Display all the vocational support a veteran could obtain.

O. Provide DVA staff with training on who veterans are and what they have been through so they can better tailor information and provide more meaningful engagements.

P. Amend legislation to incorporate a wider variety of educational options for veterans. Provide support such that a veteran can obtain education in any field so that they can move on in their life after being medically discharged from the ADF as a result of a service injury/wound.

Q. Investigate the extent of support the military provides to serving veterans and amend legislation so that DVA can offer support beyond this scope.

Conclusion

21. This committee has a unique opportunity to review how DVA supports the Australian veteran community. Currently the system is not geared to support the entire breadth of both serving and ex-serving veterans needs. Legislation is restrictive and applied by DVA staff that do not have any idea or understanding of who a veteran is and what they have been though.

22. I appreciate the opportunity to submit these personal observations. I would greatly appreciate that whilst the contents of this submission be open access to the public,

The contents of this submission are personal observations and views only.

23. Thankyou for your time in appreciating this submission, if you have any further questions or require any further detail please don't hesitate to contact me by any of the below means.

27 May 2013