# Chapter 5
# Administration issues

## Introduction

5.1 Commentary on the administration of veterans' entitlements by DVA was present in the bulk of submissions received for the inquiry. This chapter will consider DVA's role in administration and examine the progress of recent reform. It will outline some of the common issues raised during the inquiry including staffing issues and delays. Finally, it will examine the use of the Compensation for Detriment Caused by Defective Administration (CDDA) scheme in relation to DVA.

## Department of Veterans' Affairs

5.2 DVA is the primary agency responsible for policy development and implementation of programs intended to assist veterans and their families. DVA also provides advice, administrative support and staff to the Repatriation Commission and the Military Rehabilitation and Compensation Commission (MRCC) which have responsibilities under the VEA and MRCA respectively. DVA will administer $10.9 billion of funding in the 2017-18 financial year. The total departmental annual appropriation for 2016-17 was $375 million (estimated actual).[1]

5.3 In June 2016, Department of Veteran's Affairs (DVA) estimated there were 329,200 living veterans, down from the estimate of 382,800 in June 2012.[2] As at 31 March 2017, there were 293,874 DVA clients.[3] Projections of beneficiaries in receipt of pensions, allowances or health care indicate a declining number of veterans and dependents. Total veterans receiving these benefits are forecast to fall from 165,760 in December 2016 (actual) to 154,000 in June 2020 and 129,100 in June 2030. Total dependents are forecast to fall from 131,296 in December 2016 (actual) to 101,600 in June 2020 and 58,300 in June 2030.[4]

5.4 DVA's annual report for 2015-16 noted while overall VEA beneficiary numbers have declined over the past four years, the numbers of SRCA and MRCA beneficiaries have been rising:

> Over the past four years there has been a 98 per cent increase in the number of MRCA veterans with an accepted disability. The number of MRCA veterans who have received a permanent impairment payment has increased from 2,246 to 7,659 (241 per cent). Despite the significant growth in numbers of MRCA clients, the numbers of new clients from the VEA,

1 DVA, *Portfolio Budget Statement 2017-18*, Budget Related Paper No. 1.4B, pp 69-70.

2 DVA, *DVA Projected Beneficiary Numbers with Actuals to 31 December 2016*, p. 1.

3 DVA, response to question on notice 43, Budget estimates, 30 May 2017, p. 1

4 DVA, *DVA Projected Beneficiary Numbers with Actuals to 31 December 2016*, p. 1.

MRCA or SRCA will not significantly impact upon the overall downward trend in client numbers. [5]

5.5 The growing number of MRCA clients has implications for DVA's administrative burden. While VEA clients usually have a relatively stable relationship with DVA, MRCA and SRCA clients can have a more episodic relationships, in that they may apply and be assessed for a lump sum payment, be reimbursed for medical costs, and come in and out of income replacement.[6]

**Table. DVA clients, expenditure and health cards**

| Scheme | DVA clients | Compensation and support expenditure (2015-16) | Health expenditure (2015-16) | Gold cards | White cards |
|---|---|---|---|---|---|
| **VEA** | 225,933 | $5.74 billion | $4.64 billion | 135,766 | 39,900 |
| **MRCA** | 25,224 | $309.9 million | $64.7 million | 1,373 | 12,820 |
| **SRCA** | 51,926 | $130.7 million | $38.2 million | n/a | 5,362[7] |

5.6 Broader issues regarding the appropriate responsibilities of DVA in delivering services to veterans were raised by some submitters. For example, Mr Arthur Ventham, Chair of the NSVSC, observed that some 'service delivery agencies have been absorbed into the Department of Human Services (DHS)'. He observed that '[e]ven in the past few months we have seen the closure of one or more DVA Country Offices and its operations now being handled by Centrelink'. Mr Ventham urged the committee to recommend DVA remain as a stand-alone department and to allocate sufficient funding to ensure that it continues to provide support to the veteran community.[8]

5.7 Similarly, the RSL described future reform of DVA as 'not well illuminated'. It was 'concerned that the long term future of the DVA may be solely as a policy-development rump, while the bulk of its service delivery functions, and indeed expertise in the management of veterans support is absorbed into the DHS'.[9]

5.8 The TPI Federation highlighted that veterans and their families were only a small portion of the Australian population. Other departments and agencies 'know little, if anything, of the Veteran's issues or entitlements and much needed consideration of their conditions'.[10] Accordingly, it considered that it was 'imperative that all DVA clients continue to have DVA as their ally'. Instead of requiring veterans

5 DVA, *Annual report 2015-16*, p. 12.

6 DVA, *Annual report 2015-16*, pp 15-16.

7 DVA, *Stats at a Glance*, March 2017.

8 *Submission 295*, p. 9.

9 *Submission 216*, p. 9.

10 *Submission 307*, p. 2.

to deal with other departments, 'DVA should have the facility to contact these other departments, get the requirements for any issue, then go back to the DVA client with a result'.[11]

5.9 Others had contrasting views. Mr Ben Johnson, a former senior public servant, noted that DHS currently has responsibility for efficiently managing government payment to families, welfare recipients and others. He pointed out it could be argued that 'DHS can provide much more efficient payment mechanisms for veterans/ex-service personnel rather than them having to deal with the inefficiency of DVA attempting to manage payments to veterans'. Such a consolidation of payment functions across government would be consistent with the previous Australian Public Service (APS) Whole Of Government (WoG) Blue Print for Reform. Mr Johnson stated that 'WoG payment reforms would enable resources to be better directed to support efficient payments to veterans, ex-service personnel and their families rather than continuing to fund DVA for administering inefficient costly payments on dated data systems'.[12] He recommended:

> DVA be required to work with DHS to deploy a 'Tell Us Once' client integrated service model in 2017 for all veterans and ex-service personnel to ensure that personal data and claims details do not have to be re-submitted to DVA on multiple occasions or lodged for different purposes under different Acts.[13]

5.10 Some such as Mr Peter Reece, a former senior DVA official, argued for Defence to take greater long-term responsibility for injured veterans. He stated 'they break them, they should fix them':

> Defence as the employer needs to retain full responsibility for the entire treatment/rehabilitation and retraining/redeployment process. They should no longer be able to so readily pass the parcel to DVA. DVA should have no responsibility for ex Defence personnel, except perhaps for compensation assessment and payment down the track as an epilogue, not a prologue. However, I go further and suggest there should be no need for DVA at all if a modern civilian type compensation system was installed – but the screams can already be heard for any suggestion that defence should have all ADF personnel managed by COMCARE...but why not?[14]

5.11 RSL DefenceCare also argued it was time to consider 'radical change to remove the stress associated with DVA claims'. It suggested:

> Many government services are outsourced and there is no reason why assessment and approval of claims could not be undertaken by non-government professional organisations. If we continue to follow the same practices, we will continue to see the same results….With the rise of

11 *Submission 307*, p. 7.

12 *Submission 264*, p. 4; *Committee Hansard*, 18 November 2016, p. 33.

13 *Submission 264*, p. 5.

14 *Submission 378*, p. 7.

> professional organisations like RSL DefenceCare, there should be a number of organisations capable of tendering for the provision of this type of service.[15]

## Progress of reforms

5.12 In 2013 the Australian Public Service Commission (APSC) conducted a Capability Review of DVA. It found that 'the environment in which DVA operates has changed at a much faster pace than the speed with which the department has allowed itself to change':

> The older client base continues to decline while the new younger client base has different expectations. The fiscal pressure facing government today coincides with public expectations of efficiently run government agencies. The concept of shared services—where scale economies are achieved with consistent and increased service levels— is widely spread in the public and private sectors.[16]

5.13 The ASPC review team concluded that DVA faced 'significant challenges to enhance its capability and mobilise its workforce so it can transform into an efficient and effective modern public sector organisation meeting government and community expectations'. It identified three key areas of 'needing urgent attention' for DVA to transform:

- operating structure, governance arrangements and information and communications technology (ICT);
- approach to clients, culture and staffing; and
- efforts to formulate effective strategy, establish priorities and use feedback.[17]

5.14 DVA acknowledged that the 'support required by Australia's veterans is changing: pre-1999 veterans and their dependants continue to age; younger veterans who have served in operations from Timor to the present have different needs, with a greater requirement for tailored and ongoing support services; and finally, in this digital age, veterans expect service delivery to be as seamless as possible, intuitive and coordinated'.[18]

5.15 In response to these challenges DVA stated that it was in the process of transforming its operations 'to put veterans at the centre of everything it does'. As part of this process the 2016-17 Budget for DVA included $24.8 million over two years to develop a second pass business case for Veteran Centric Reform which focused on simplifying and streamlining business processes and replacing legacy information and communication technology (ICT) systems.

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15 *Submission 216*, p. 16.

16 APSC, *Capability Review: Department of Veterans' Affairs*, December 2014, p. 5.

17 APSC, *Capability Review: Department of Veterans' Affairs*, December 2014, p. 5.

18 *Submission 156*, p. 16.

5.16 This was following by a 'significant investment' in the 2017-18 Budget for the first stage of Veteran Centric Reform to allow DVA to 'provide easier access to services and to streamline and help early decision making for claims'.[19] The aim of this reform was to give the veteran community 'a greater standard of service through reform of business processes and culture, identification and implementation of government-endorsed best practice service options and targeted ICT redevelopment'. Veteran Centric Reform would be supported by funding 'to implement a suite of proactive interventions to deliver targeted assistance'. These interventions included:

- analysing the services veterans access through the Department, from car bookings through to health and rehabilitation services, to gain more meaningful insights into the needs of our clients
- identifying common themes across client groups and proactively changing support arrangements to meet their needs
- applying behavioural economics approaches across our business to ensure the programs we provide are best practice
- conducting a trial that will see medical treatment provided from the time a claim is submitted, rather than from the date a claim is approved.[20]

5.17 The Government response to the NMHC report acknowledged the 'finding that many DVA clients have reported negative experiences' with DVA. It stated:

> DVA exists to serve our veterans and its clients. That is why in this year's Budget, the Government provided $166.6 million to implement the first stage of Veteran Centric Reform which is the most comprehensive upgrade to DVA systems, processes and technology ever undertaken.
>
> DVA's reforms will focus on:
>
> - Enhanced veteran experience - implementing an improved, easy access to veteran services, regardless of channel
> - Contemporary and modernised processes - our processes will be digital wherever possible, with fewer steps and shorter timeframes
> - Foundational ICT- updating ICT platforms to mitigate critical ICT risks for all business areas
> - Data driven approach - providing services to clients through proactive interventions and behavioural economics to deliver targeted assistance that will support veterans to lead healthy and productive lives.[21]

19 DVA, *Portfolio Budget Statement 2017-18*, p. 15.

20 DVA, *Portfolio Budget Statement 2017-18*, p. 18.

21 Government response to NMHC report, p. 8.

5.18 DVA outlined that it was also pursing improvements to claim processing through 'Lighthouse project'. This had the 'twin aims of improving *Military Rehabilitation and Compensation Act 2004* liability processing' and demonstrating DVA can deliver changes in line with the Australian Government's Digital Service Standard methodology and work collaboratively with public sector partners.[22] Mr Simon Lewis, the Secretary of DVA, told the committee:

> It will build on our success in implementing the digital transition agency's digital service standard into our project methodology through the Lighthouse project. This project redesigned the Military Rehabilitation Compensation Act, the MRCA, liability claims process with improved processing times for some claims reducing from 120 days to four days.[23]

5.19 These changes were achieving results in relation to reduced processing times. For example, Mr Orme from DVA described one initiative:

> The figure, when we first introduced non-liability health care, was approximately 53 days to deal with the non-liability claim. We got that down to 18, I believe, and currently we are running at 1.5 days per claim. That is a good example of the changed processes, the increase in training, the way we are doing our business differently and the way we are focusing on getting only the information that we need…[24]

### *ICT investment*

5.20 Investment in updated ICT was a key focus of reform. The ASPC Capability Review in 2013 found:

> [T]here are some 200 individual ICT systems operating in the department with a dated desktop. Typically a client facing employee or assessor may need to open three or four separate applications, none of which 'talk to the other', in order to deal with a single client request or claim. Furthermore, staff or assessors may need to access additional separate applications (likely through another staff member) to determine if a client had a transport booking, or to check a client's eligibility for glasses or dental treatment.
>
> In the absence of a single client number or reference point, it is impossible for staff to see the full range of services that may be given to, or purchased for, an individual at any one point in time. This is somewhat ironic given the commitment of individual staff to their clients. Indeed, the array of disparate and ageing systems works against developing an integrated view of the client and is inconsistent with the principles of good client service. It creates a considerable number of legacy challenges for the department and tends to reinforce existing processes rather than encouraging more comprehensive process re-engineering to deliver more effective and efficient client services.[25]

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22 DVA, *Annual report 2015-16*, p. 11.

23 Mr Simon Lewis, *Committee Hansard*, Budget Estimates, 30 May 2017, p. 94.

24 *Committee Hansard*, 6 February 2017, p. 57.

25 APSC, Capability Review, p. 8.

5.21 The committee's report into the mental health of ADF members and veterans in 2016 recommended DVA be adequately funded to achieve full digitisation of its records and modernisation of its ICT systems by 2020, including the introduction of a single coherent system to process and manage claims. This recommendation was agreed in principle by the Australian Government which acknowledged that many of DVA's critical ICT current systems are out of date and in substantial need of modernisation.[26] It stated:

> Using existing resource allocations, DVA has already commenced a journey of digital transition with regard to paper records, which will take a number of years. In the last two years, DVA has also been reviewing its compensation claims processes and structures. Some streamlining of processes and organisational changes are bringing in improved performance. In addition, valuable work has been completed in analysing existing business processes and identifying future business processes.[27]

5.22 The urgent nature of this investment in ICT was underlined during the inquiry. For example, Mr Lewis, the Secretary of DVA, told the committee that 'the reality is that [DVA] have over 150 quite antiquated systems, over half of which the Finance department regards as being at—is it 'very high', or 'catastrophic'—risk of failure'.[28] The 2015-16 Budget included $23.9 million for DVA to commence a two-year program, known as the Improving Processing Systems (IPS) Program, to redesign and redevelop key rehabilitation and compensation (R&C) systems.[29] DVA noted:

> IPS is designed to improve the short-term capability and sustainability of critical ICT business applications that underpin compensation and rehabilitation processing systems, which have been assessed as having a high likelihood of catastrophic failure and are experiencing increasingly more frequent outages.[30]

5.23 DVA noted that the 'recent digitisation of correspondence and files, and planned implementation of a new claims processing system, will reduce DVA's dependency on paper'. Claims processing will be improved as staff 'will readily have access to the relevant electronic information and evidence'.[31]

5.24 Some of this investment has leveraged Department of Human Services (DHS) ICT capabilities and has been driven by broader government reform agendas in relation to welfare payment infrastructure. DHS has been provided with $68 million to develop new ICT capability for the DVA as part of Veteran Centric Reform.[32] The

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26 Australian Government response, p. 14.

27 Australian Government response, p. 14.

28 *Committee Hansard*, 6 February 2017, p. 50.

29 DVA, response to written question on notice 6 February 2017 public hearing.

30 DVA, response to written question on notice 6 February 2017 public hearing.

31 DVA, response to question on notice 27, Budget estimates, 30 May 2017, p. 1.

32 DVA, response to question on notice 5, Budget Estimates, 30 May 2017, p. 1.

Government response to the NMHC report highlighted a key initiative was the joint DVA and DHS 'MyService', an online service that allows clients who enlisted in the ADF after 30 June 2004 to submit a request for entitlements under MRCA online. It stated:

> Through MyService, the initial liability processing time for some claims has reduced from the key performance indicator of 120 days to only four days…While MyService only supports a small segment of the ADF and veteran population, it was developed to show that DVA can rapidly transform client services – now DVA and DHS are looking at ways to expand the service to help a wider range of clients. This includes exploring ways to use MyService for claims under the [VEA] and the [SRCA], as well as looking into the automatic acceptance of certain physical conditions based on the expected impacts of meeting the ADF's rigorous physical training requirements. These initiatives will assist DVA to process claims in a timely fashion...[33]

## Common issues raised

5.25 DVA's most recent client satisfaction survey indicated that while older veterans or families who have an enduring relationship with DVA are largely satisfied, contemporary veterans and families were less satisfied. 83 per cent of veterans were satisfied with DVA overall, 6 percentage points below the result of the last survey in 2014. However, only 49 per cent of veterans who were under 45 years of age were satisfied and 31 per cent were dissatisfied.[34]

5.26 The committee also received an independent survey prepared by a veteran, Mr Angus Sim, which was conducted online and received almost 600 responses. The responses to the survey illustrated the range of problems veterans report experiencing with DVA. The survey also indicated that younger veterans, often with claims under SRCA and MRCA, were the least satisfied with their experiences. In particular, many indicated that in dealing with staff in DVA 'the process and treatment by the DVA' had resulted their accepted conditions getting worse.[35]

5.27 A number of common issues have been raised in submissions from individual veterans, advocates for veterans, lawyers and ESOs regarding their interactions with DVA and the administration of the military compensation schemes. These included:

- administrative and staffing issues;
- delays in claim determinations;
- medical assessments by contracted practitioners;
- incorrect payments;
- communication issues; and

33 Government response to NMHC report, pp 38-39.

34 Mr Simon Lewis, *Committee Hansard*, Budget Estimates, 30 May 2017, p. 93.

35 *Submission 297*, Attachment 1, p. 64,

- adversarial approaches to claims.

***Administrative and staffing issues***

5.28 Several administration and staffing issues were raised including:

- the level of staffing;
- the quality and training of staff;
- the spread of DVA functions; and
- inefficient administrative practices.

*Level of staffing*

5.29 Some submitters pointed to reducing staffing as a challenge for DVA in fulfilling its administrative functions. DVA currently has around 200 delegate claim assessors dealing with approximately 30,000 claims per year. The average case load for each delegate was 90 cases.[36] Sympathy was expressed for the work pressure on DVA staff in processing claims. For example, Dr Nick Ford commented that from his experience 'DVA case managers carry a massive case load of 100 to 180 cases, have little clinical training and are generally focused on only process and compensation issues'.[37]

5.30 Staffing in DVA has trended down in the last decade from 2,369 in 2006-07 to 1,986 in 2015-16. The DVA portfolio budget statement for 2017-18 estimated an average staffing level of 1,853.[38] Some, such as Mr Peter Thornton, pointed to a lack of staff as the cause of poor administrative outcomes. He recommended DVA be excluded from the efficiency dividend and frontline staff increased.[39] Mr Thornton stated:

> If the reader is searching for possible reasons as to why DVA claims processing has been lack-lustre over time, or that client engagement might have been seemingly tense at times, then look no further than poor staffing policies by Governments, which arbitrarily imposed 'Efficiency Dividends' and punitive staffing cuts on the DVA...[40]

5.31 Others highlighted a lack of continuity in staff responsible for processing claims.[41] The TPI Federation noted that many DVA staff are temporary and had little background knowledge of veterans' issues.[42] Mr Ken Parnell who assists veterans as part of the William Kibby VC Veterans Shed in South Australia described his 'biggest problem' as the changing of staff at DVA. He stated:

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36 *Committee Hansard*, 6 February 2017, p. 57.

37 *Committee Hansard*, 17 November 2017, p. 2.

38 DVA, *Portfolio Budget Statement 2017-18, Budget Related Paper No. 1.4B*, p. 22.

39 *Submission 335*, p. 15.

40 *Submission 335*, p. 15.

41 For example, Mr Raymond Kemp, *Committee Hansard*, 17 November 2016, p. 12.

42 *Submission 307*, p. 4.

> It is people leaving. A lot are retiring. A lot of the knowledge has retired recently, even in this state. Over the last four years of nine I have noticed a lot of contractors coming in. They are employing staff under contract. They have put them onto three- or six-month contracts. They begin to learn their job, and then they are gone; they are not re-employed. [43]

5.32 In a response to a question on notice, DVA outlined that in 2015-16, 'the retention rate for APS5 claims delegates in the Rehabilitation and Compensation group was approximately 93 per cent'. The reasons for staff separating during the financial year were; retirement, transfer or promotion within the Australian Public Service, resignation or end of employment contract.[44] APSC statistics indicate that overall the retention rate of ongoing employees at DVA in 2015-16 was 89.4 per cent.[45]

5.33 One area which had recently received an increased level of staffing was case coordination. DVA highlighted that the 2015-16 Budget had provided $9.6 million over four years to deliver a measure to increase the number of case coordinators and establishing the Coordinated Client Support (CSS) service model.[46] It noted:

> Case coordinators are provided for clients with complex needs who have caused or may be in danger of causing harm to themselves or to others. Case coordinators help at-risk clients with complex needs to navigate through DVA services and benefits to minimise the risk of self-harm. Coordinators provide a primary point of contact for clients and help them and their families to access other psychosocial needs outside the Department.[47]

5.34 Mr Craig Orme from DVA told the committee:

> Under our case coordination system, we had 33 additional FTE provided to the department, which we brought on board last year. They provide increased case coordination for clients who have complex issues—it could be health; it could be a range of other social issues or difficulties—to ensure we provide better support. [48]

5.35 DVA considered the program had 'been successful in its implementation to date, receiving more than 800 referrals in 2016, and currently supporting more than 700 clients with complex needs…'. This included a number of clients identified as requiring support through their separation from the ADF on medical or administrative grounds.[49] Several submitters regarded the additional coordinated client support staff as a positive development. For example, the Partners of Veterans Association of

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43 *Committee Hansard*, 17 November 2016, p. 27.

44 DVA, response to question on notice from 6 February 2017 public hearing.

45 ASPC, *Australian Public Service Statistical Bulletin 2015-16*, 2016, p. 45.

46 *Submission 156*, p. 7,14.

47 *Submission 156*, p. 14.

48 *Committee Hansard*, 6 February 2017, p. 60.

49 DVA, response to question on notice from hearing 6 February 2017.

Australia endorsed the funding over four years of the Coordinated Client Support (CCS) service model. It stated:

> The appointment of additional Case Coordinators from early this year is markedly improving the Department's support of veterans at risk of self-harming and who have complex cases that necessitate multi-agency coordination. We note that the Department has changed the claim registration process to facilitate the early identification of cases that require coordination. We also note the wide range of ways in which veterans can be referred for case coordination.[50]

*Quality and training*

5.36 A number of submissions from veterans recounted negative experiences or inappropriate conduct in dealing with DVA staff members. For example, Ms Tracie Cooke was a sergeant with the Australian Army. She outlined she had a number of common health conditions for veterans including tinnitus and hearing loss. She stated:

> I spoke to a supervisor one day because the bloke who rang me was so rude he was saying HELLO HELLO yelling it and then said yep what do you want. I thought they were there to do a job, but the supervisor said oh they have been under stress too many claims they look after about 50 people each…[51]

5.37 Avenues to redress problems with DVA staff members were often perceived as inadequate. The Victims Of Abuse In The Australian Defence Force Association considered that the 'mechanisms for dealing with complaints against employees who have an uncaring attitude or contractors who do not fully understand the Acts are limited' and involve DVA 'sitting in judgement on itself'.[52]

5.38 While DVA employs a large number of members with military experience, some DVA delegates were considered to lack an appropriate understanding of the realities of military service and this impacted compensation claims by veterans.[53] For example, Mr Rod Thompson, an advocate, provided a number of examples from his experience where DVA staff had fundamentally misunderstood the military context when injuries to veterans occurred. He noted 'daily misunderstandings of the veterans' military service cause many claims to be rejected initiating a long, costly and damaging appeals process costing both the veteran and the DVA financially and emotionally'.[54]

5.39 Inadequate understanding of the legislative framework and incapacity to understand medical reports and evidence were also identified amongst DVA staff. For example, Dr Catriona Bruce and others highlighted that non-medically-trained DVA

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50 *Submission 45*, p. 3.

51 *Submission 113*, p. 1.

52 *Submission 281*, p. 14.

53 *Submission 295*, p. 7.

54 *Submission 334*, pp 4-5.

delegates are required to extract information from medical assessments to make a determinations which 'leads to inaccurate assessments, and significant stress and long-term consequences for the individual'.[55]

5.40 Additional training for DVA staff was frequently proposed. For example, RANZCP recommended that the training of DVA staff could be improved with regard to:

- veteran-specific mental health issues;
- appropriate use of sensitive language; and
- the realities of clinical practice.[56]

5.41 While some submitters expressed criticism of DVA staff, many also highlighted their personal experiences with high-quality DVA staff members. For example, Mr Johnson clarified that he did not wish to 'denigrate all staff in DVA' in his submission noting that there were 'many highly professional, committed and diligent APS officers working tirelessly to effect changes from within'.[57]

*Spread of administrative functions*

5.42 The placement of administrative functions relating to claims in different areas was also criticised.[58] For example, Mr John Burrows, an advocate, considered that '[t]he recent change in the responsibilities of DVA State Offices and relocation of topical points of contact has created confusion and considerable disruption amongst the veteran community'. He noted:

> Prior to these changes, each state DVA Offices was a 'one stop shop' for all matters DVA and were in many regards easily accessible and locally focussed. Now many of those responsibilities and the support once locally available to Veteran communities and their families have now been relocated to DVA Offices in other States.[59]

5.43 Similarly, Mr Brian Briggs from Slater and Gordon Lawyers commented:

> The splitting of functions geographically without appropriate IT support means DVA staff lack appreciation of the total picture regarding a Veteran's case. This further adds to delays in processing, duplication in actions required to resolve claims and additional frustration and stress for the Veteran…
>
> Files continue to be shipped all over the country; one section may deal with liability before another considers incapacity and then another rehabilitation or treatment.

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55 *Submission 171*, p. 2.

56 *Submission 165*, p. 15.

57 *Submission 264*, p. 9.

58 For example, Mr Robert Bak, *Submission 248*, p. 4.

59 *Submission 189*, Supplementary Submission, p. 10.

> Permanent impairment and compensation will be looked at by entirely separate teams. This entire bureaucratic file shuffling and passing on of an injured members' claim, causes significant delays. The frustration of my clients at this inefficiency and ineptitude is overwhelming.[60]

5.44 RSL (Tasmania) reported that its advocates had noticed an increasing lack of coordination between different life-stages of a claim since the reallocation of tasks between DVA offices in each state. It stated that while 'clustering claim functions into single silo sites may have been intended to introduce consistency of decisions, it has resulted in inefficiencies between claims stages, increases costs and increases frustration in veterans'.[61] It stated:

> Where a claim is made under MRCA or SRCA, liability for the claim is determined in either Melbourne or Sydney. Once liability is determined, Needs Assessment is performed in Adelaide, and then Incapacity payments or Permanent Impairment payments are assessed in Perth. In the past, where the Needs Assessment identified a need for both incapacity payments and permanent impairment claims, there was a degree of coordination between these phases of the claim in that specialist reports requested by the incapacity team were of a nature that addressed the needs of the permanent impairment team as well. Increasingly, this is not the case…[62]

*Inefficient administrative practices*

5.45 Many stakeholders involved in interactions with DVA including veterans, advocates and health providers highlighted confusing administrative practices and the negative impacts of cumbersome forms and paperwork. Mr Arthur Ventham illustrated these issues by noting that 'twelve years after the most recent Act was brought in, there is still no single claim form for veterans to fill out if their service cuts across multiple acts'.[63] He argued:

> DVA needs to simplify the overall MRCA and SRCA claims process. The complexity of MRCA and the extended investigations into the range of entitlements (Permanent Impairment, Incapacity and Rehabilitation) must be simplified to become less confusing so it is more easily understood by those it is designed to assist, particularly when they are suffering from a mental health condition.[64]

5.46 Similarly, Dr Jonathan Lane stated:

> [I]n in terms of claims for compensation or liability, there is an enormous amount of paperwork and administration involved in submitting a claim, along with the burden of proof required for this. Each individual injury or problem requires a separate claim form, regardless of whether they are

60 *Submission 148*, p. 5.

61 *Submission 169*, p. 16.

62 *Submission 169*, p. 14.

63 *Submission 295*, p. 13.

64 *Submission 295*, p. 10.

> related injuries. Each claim may be many, many pages long. That claim may then be assessed by somebody with only superficial knowledge of the issues involved, and hence rejected, as the claim was not clear, or not understood by the assessing psychiatrist. These problems are exacerbated by the claimants not understanding what is going on with themselves at the time, and the fact that they are quite obviously unwell when undergoing this process.[65]

### *Delays*

5.47 A key complaint in relation to DVA's administration related to lengthy delays in the processing of claims. The DVA client satisfaction survey noted that veterans under 45 years were much more likely to have submitted a claim to DVA in the last 12 months (37 per cent) compared to older veterans. There were stark differences between older and contemporary veterans in terms of satisfaction with the time taken to process a claim or application. While 65 per cent of veterans 65 years and over were satisfied, only 56 per cent of those aged 45-65 years and 39 percent of those aged under 45 years were satisfied.[66]

5.48 The toll of administrative delays on claimants was repeatedly made clear. For example, the committee spoke to Mr Guy Bowering, who despite having a relatively clear cut condition and accurate records waited three and a half years for his claims to be finalised. He noted that he knew of veterans for whom the process was too hard and withdrew their claims.[67] The joint submission from Dr Catriona Bruce and others noted that delayed claim processes leave the individuals 'in a form of limbo which directly and negatively affects mental health' and can also cause 'severe financial distress to individuals, which is a causative factor for suicide'.[68]

5.49 DVA provided information on claims under the three schemes and the average time taken to process (TTTP). The average TTTP VEA compensation cases in 2015-16 was 72 days, the same as in 2014-15, against a target of 75 days.[69] DVA indicated that, as at 6 February 2017, the oldest liability claim under the VEA was 440 days old. The delay in finalising this claim was due to the time taken to obtain medical evidence, from the applicant's treating general practitioner and treating psychiatrist, for the multiple conditions claimed across all three Acts.[70]

5.50 In 2015-16, 5,920 compensation conditions were determined under the SRCA, with an acceptance rate of 60.9 per cent, and the mean time taken to process SRCA liability cases was 118 days.[71] The average TTTP in 2014-15 was 140 days with a

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65 *Submission 78*, p. 1.

66 DVA, *2016 Client Satisfaction Survey*, May 2017, p. 17.

67 *Committee Hansard*, 17 November 2016, pp 42-43.

68 *Submission 171*, p. 1.

69 DVA, *Annual report 2015-16*, p. 39.

70 DVA, response to question on notice from 6 February 2017 public hearing.

71 DVA, *Annual report 2015-16*, p. 49.

target of 120 days.[72] DVA indicated that, as at 6 February 2017, the oldest liability claim was a SRCA claim which was 536 days old. The delay in finalising this claim was due to the time taken to obtain medical evidence from the applicant's treating general practitioner and treating specialist. The claim was subsequently finalised.[73]

5.51 In 2015-16, 14,527 compensation conditions were determined under the MRCA, with an acceptance rate of 71.4 per cent, and the mean time taken to process MRCA liability cases was 117 days.[74] The average time taken for 2014-15 was 109 days with a target of 120 days.[75] DVA indicated that, as at 6 February 2017, the oldest liability claim under the MRCA is 484 days old. This relates to a claim for compensation following death. The delay in finalising this claim is due to the coroner's investigation not yet reaching a conclusion on the cause of death. This claim will be finalised once the Coroner's Court has made a decision on the cause of death.[76]

5.52 However DVA and others submitters emphasised that delays can also be the result of processes occuring at other agencies. For example, Mr Rod Thompson, an advocate noted that the 'Commonwealth Superannuation Corporation…are running at least 9 months behind in processing assessments'.[77] Mr Lewis, the Secretary of DVA, stated that some veterans with medical discharges could be 'waiting a lot of time for the CSC to make its determination, and the DVA cannot start to make its determination until it knows the outcome of the CSC'. He noted that meetings were occurring between CSC, DVA and Defence 'trying to work out ways to get the system to work much better in relation to someone who will be going through the medical discharge process with a view to getting the CSC determination and then hopefully the DVA determination, and ideally all of that before the point of discharge'.[78]

5.53 The 2017-18 Budget included funding of $13.5 million for one year to alleviate pressure on claims processing staff and to reduce the backlog associated with increasing claims.[79] DVA budget documents acknowledged that 'increased claims processing workload has placed significant pressures on the [DVA's] ability to effectively deliver services to veterans'. The measure will enable DVA to maintain the necessary workforce and resources to help meet increased workloads and reduce the claim backlogs.[80]

5.54 Various proposed solutions were suggested to address the backlog in claims. Some proposed a DVA taskforce or dedicated section to expedite assessment and

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72 *Submission 156*, p. 18.

73 DVA, response to question on notice from 6 February 2017 public hearing.

74 DVA. *Annual report 2015-16*, p. 49.

75 *Submission 156*, p. 18.

76 DVA, response to question on notice from 6 February 2017 public hearing.

77 *Submission 334*, p. 3.

78 *Committee Hansard*, 6 February 2017, p. 56.

79 Mr Simon Lewis, *Committee Hansard*, Budget Estimates, 30 May 2017, p. 93.

80 DVA, 'Improving claims processing', *Budget 2017-18*, p. 1.

processing of all outstanding claims.[81] Others suggested new processing benchmarks and service level standards to ensure more timely processing of claims. For example, DiggersRest@Quailsridge, a small ESO, suggested 'DVA should have a set time frame to process these claims and be held accountable should they not process the claim on time. In particular, veterans should get automatic approval of claims if they are not processed within the time period.[82]

5.55 Mr Brian Briggs, from Slater and Gordon Lawyers proposed the introduction of 90 day time limits on:

- decisions in relation to acceptance or refusal of liability for claims;
- decisions in relation to compensation; and
- reconsideration of original determinations.[83]

5.56 Under this proposal, if decision is not made within the specified time frame, the claim should be deemed to have been rejected and the claimant able to apply for reconsideration or review. Mr Briggs argued that several other overseas jurisdictions incorporated time limits into their claims processes for veterans and this had led to increased efficiency and better outcomes. He noted that DVA has previously refused to incorporate such amendments.[84]

5.57 Notably, the NMHC report recommended:

> As DVA has mapped the process between lodging a DVA claim, acceptance of a claim, and first payment being made, and established key performance indicators for the time to decision and payment, it should implement a default position, in the event that a decision is not made within the stipulated timeframe, to pay a claimant until such time as a definitive decision is made. This provides an impetus for DVA to ensure that claims are processed in a timely fashion and that claimants are not unreasonably disadvantaged by delays in DVA administrative processes.[85]

5.58 However, the Government response stated:

> While the Government is committed to reducing Time Taken to Process claims and improvements have already been made in recent years, the Government does not support a default position in the event a decision is not made within a stipulated timeframe. Legislated timeframes for the processing of initial liability claims under the *Military Rehabilitation and Compensation Act 2004* were the subject of the Review of Statutory Timeframes report tabled in Parliament in June 2014. The report recommended against the introduction of legislated timeframes because

81 For example, Mr Ben Johnson, *Submission 264*, p. 6.

82 *Submission 275*, p. 1.

83 *Submission 160*, p. 25.

84 *Submission 160*, p. 25.

85 NMHC report, p. 54.

> they increased the risk of poor, incomplete or incorrect outcomes for claimants.
>
> In any case, a number of major initiatives through the Veteran Centric Reform project will result in reduced time taken to process claims.
>
> Veterans can access treatment for any mental health condition without the need for a compensation claim through Non-Liability Health Care arrangements.[86]

5.59 ADSO noted that the review of statutory timeframes had identified a range of factors which contributed to delays. These included:

- the investigative nature of the claims process;
- the time between incident and lodgement of a claim;
- the complexity of claims;
- the receipt of incomplete claims; and
- the involvement of external parties, such as the Department of Defence (Defence) and medical providers, in the claims process.[87]

5.60 However, the ADSO highlighted that there were positive improvements in processing times arising from recent reforms which had streamlined claims processing under both the VEA and MRCA. It reiterated the importance of further appropriations to DVA to enable further Lighthouse Project reforms to improve claims processing.[88]

***Medical assessments***

5.61 Serious complaints were raised regarding the quality, appropriateness and fairness of medical assessments required by DVA in the claims process. DVA outlined that its departmental guidelines state that a report from a treating specialist is preferred, however it noted that it may use external, non-treating medical practitioners (often a medico-legal firm) to seek an independent report in some cases. These medico-legal companies are selected on a case by case basis and there is no schedule of fees or contract and payment is on a case by case basis. These medico-legal firms were used in situations where:

> - the client does not have a treating specialist or, more rarely, where the delegate is dissatisfied with the treating doctor's response e.g. there is conflicting information;
> - insufficient information is provided with the claim and it is necessary to ask the client to undergo a medical examination e.g. to determine the level of impairment, the deterioration and/or the permanency of the condition;

86 Government response to the NMHC report, p. 71.

87 *Submission 172*, p. 12.

88 *Submission 172*, p. 11.

- the treating specialist cannot or will not provide the required information; or cannot provide it in a timely manner;
- a subsequent report still does not meet the diagnostic criteria;
- a report is deficient in some aspect and a report from a further medical professional is required for the purpose specified in the referral.[89]

5.62 However, RSL Tasmania reported that its advocates were finding DVA's policies were 'often not adhered to'. It stated that '[i]n many cases, a claimant has a treating specialist, and these details have been provided to the delegate, but the treating specialist is not used and, instead, an MLCOA specialist is used'. It outlined a number of issues with the use of independent specialists. In particular:

> A further difficulty with using independent specialists in preference over treating specialists is that claimants may not be comfortable speaking with an independent in some circumstances. This is particularly the case when dealing with mental health claims where trust between the patient and the specialist is an essential element in both accurate diagnosis and treatment…Treating specialists have had time to overcome this and have a much clearer picture of the claimant's mental health than can be provided by an independent in a relatively short, single consultation.[90]

5.63 Many veterans reported difficulties in accessing appointments for medico-legal assessments and objected to another opinion being sought when one was available from their own treating specialist. ADSO considered there was evidence that 'too many Independent Medical Examiners and Approved Rehabilitation Program Providers approach their contracted responsibilities as though veterans are compensation insurance claimants from the general community – with all the associated pejorative connotations'.[91] One veteran described attending appointments arranged by DVA as 'extremely stressful for veterans and families'. They commented:

> There is no patient Dr relationship, nor period of observation to facilitate a balanced or fair assessment. There is no reason that the Department should not accept the assessment of the GP or specialist, provided by the veteran, with whom the veteran has established some trust within a clinical relationship.[92]

5.64 Ms Michelle Roberts related her husband's experience:

> My husband was sent to a MCLOA Dr in December 2014. We drove 3 hours on a Saturday with our children for the appointment. We had trouble finding the place so rang to say he was going to be 15 minutes late. Even so, the doctor told him off when he arrived. The doctor refused to look at any medical documents my husband had brought with him, instead relying on only the x-rays Defence had provided. The extent of my

89 DVA, response to written question on notice 6 February 2017 public hearing.

90 *Submission 169*, p. 8.

91 *Submission 172*, p. 14.

92 Name Withheld, *Submission 292*, p. 5.

> husband's injuries is not able to be seen in x-ray. The whole appointment lasted 15 minutes…[93]

5.65 The TPI Federation questioned the cost of legal work and health reports when a veterans' condition is obviously Defence caused, and is referred to in the Defence medical documents.[94] It observed that DVA has acknowledged that there are less than 1.5 per cent of claims that are disingenuous. In this context, the TPI Federation suggested that DVA should change its approach to accept a claim for compensation and medical health and allow the few disingenuous claims to be followed up by DVA's fraud section. This would mean that the vast majority of clients 'need not be put through the wringer to prove a case with very expensive medical reports and, at times, legal reports'. It recommended DVA accept veterans face-value and 'not treat them as potential fraudsters'.[95]

5.66 Dr Andrew Khoo agreed that there are examples of inappropriate medico-legal assessments of veterans:

> [T]here is a belief that the treating psychiatrist will consciously or unconsciously overadvocate for their patient in a way that will skew their opinion in terms of how sick that person is. That is why they want to get an independent view. You cannot get the same picture about what is going on with someone at that time, how they are going to respond to treatment and what their prognosis is in the future, if you have not been regularly seeing that person in a longitudinal fashion. You are going to get a much more definitive and a much more reliable, valid picture of a person's medical position at that time and their prognosis in the future, if you get their treating psychiatrist to write the report rather than an independent that might see them, like you say, for 45 minutes and then make all those broad statements.[96]

5.67 He noted that these independent medical examinations could destabilise patients by causing them to repeatedly talk through difficult circumstances, promoting distrust, adding delays to claim processing and 'personalising the diagnostic position of the independent medical examination…seeing [the patient] as a liar or someone who is fabricating a story'.[97] Similarly, Dr Jonathan Lane, a psychiatrist, also questioned the value of short assessments for mental health conditions:

> A person actually often will appear better than what they really are in that one-off assessment because they do not have the chance to be able to display the range of symptoms they have got, the severity of the symptoms

93 *Submission 314*, p. 2.

94 *Submission 307*, p. 6.

95 *Submission 307*, pp 6-7.

96 *Committee Hansard*, 2 February 2017, p. 11.

97 *Committee Hansard*, 2 February 2017, p. 11.

> and the duration of those symptoms…It is traumatising for the person, and it is actually underrepresenting their true level of debility, mostly.[98]

5.68 However, there were contrasting positions. Mr Peter Reece recommended 'all medical assessments for permanent disability be conducted by expert contracted medicos, not by veterans' own GP's. He considered more 'rigour' was required 'especially in mental health assessments'.[99]

5.69 The Government response to the NMHC report noted that '[i]n order to access services from CSC and DVA, members are often required to undergo further medical assessments and provide additional medical information'. It acknowledged that '[t]his can cause frustration for separating members when they feel they have to undergo multiple medical assessments for the same conditions and provide the same information a number of times'.[100] It highlighted:

> Defence, DVA and CSC are working together to improve the health examination process at the time of separation from the ADF. A Single Medical Assessment Process (SMAP) will be more member-centric, reduce the requirement for multiple medical assessments where possible, and avoid the requirement for the member to submit the same information more than once.[101]

### *Incorrect payments*

5.70 Several veterans highlighted issues they had experienced relating to incorrect payments being made by DVA.[102] Mr Michael Quinn, an advocate, commented:

> The department states that because there is less than a 3% over payment problem that this does not require attention. The problem is that if you fall within the 3% you can end up owing the department tens of thousands of dollars. This [is] unacceptable if you are waged capped at 75% of a Privates wage. The mistakes tend to reoccur to the same veteran and provide a great deal of distress.
>
> The main problems seem to occur when providing offsetting calculation between ComSuper and Incapacity payments. This problem is exasperated even further when the Tax is being calculated. It is very difficult to find someone within the department to find the error and even when all criteria are met for the debt to be written off it very rarely occurs. The issue of overpayments needs investigating in it own right. There are no efforts being made to fix the problem. An over payment issue can remain with the veteran for 2 or 3 years. In some cases the repayment will take decades.[103]

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98 *Committee Hansard*, 17 November 2016, p. 19.

99 *Submission 378*, Supplementary submission, p. 2.

100 Government response to the NMHC report, p. 32.

101 Government response to the NMHC report, p. 38.

102 For example, Ms Ashley Smith, *Submission 26*, pp 1-3, Slater and Gordon Lawyers, *Submission 160*, p. 38, Name withheld, *Submission 306*, pp 1-11.

103 *Submission 29*, p. 4.

5.71 Where two or more agencies were involved in incorrect payments the potential problems for the veterans appeared to be amplified. For example, the TPI Federation outlined an issue where a 'non-operational DVA client who HAS to deal with Centrelink is advised by them that there is an overpayment':

> This needs to be repaid via the Centrelink Disability Pension. Because there was an overpayment with this payment then the [Defence Force Income Support Allowance (DFISA)] from DVA also has an overpayment. This has to be recovered from the DFISA payment. If a DVA client wants to query this overpayment, then Centrelink advise that DVA should be contacted and then DVA advise that Centrelink should be contacted. There is never a resolution. Again, DVA should be controlling all DVA client's payments. With this type of confusion there is much to worry about with those DVA clients who have mental health issues.[104]

5.72 Mr Brian Briggs from Slater and Gordon Lawyers considered that incapacity payments in particular were not well managed by DVA. He noted that the 'ANAO provides that in 2014, the DVA reported that over 20 per cent of payments were made in error or were instances of overpayment'.[105]

5.73 DVA outlined that it was legislatively bound to administer debts and overpayments across the three legislative schemes and that if clients were paid more than they are lawfully entitled to receive, those monies were recoverable debts. It noted:

> The majority of overpayments are for relatively small amounts and occur when clients do not meet their obligations to advise DVA of changes in their circumstances or, they no longer meet the specific eligibility requirements for a certain benefit. Changes in a client's circumstances can mean that they are entitled to either a higher or lower benefit. When an overpayment occurs, a repayment plan is developed based on the client's capacity to repay the debt.
>
> Aged clients who experience large pension reductions and have no representative are contacted by telephone before receiving written advice from the Department. There are also guidelines for staff to follow for contacting clients with mental health conditions who have overpayments. Recovery is always within the client's capacity so they are not adversely affected. Clients are able to contact DVA if they have difficulties in repaying an overpayment.
>
> While most overpayments are recovered, in certain circumstances some are waived or written off.[106]

5.74 DVA listed a range of processes and strategies used to ensure that its clients were receiving correct entitlements. These included:

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104 *Submission 307*, p. 4.

105 *Submission 160*, p. 38.

106 DVA, response to written question on notice from 6 February 2017 public hearing.

- a booklet for new income support pension clients and periodic letters to inform and remind them regarding their rights, benefits and legal obligations;
- publication of DVA factsheets concerning client obligations in regard to specific circumstances or issues; and
- an extensive Quality Assurance Program which monitors the quality and consistency of decisions and determinations made.

5.75 DVA stated that '[t]o complement these strategies, there are departmentally driven control activities in place which include departmental initiated reviews (e.g. enhanced compliance reviews, periodical payment or medical reviews), identity checking and data-matching programs with other Government agencies (e.g. death data matching)'.[107]

### *Availability of information and communication*

5.76 One advocate, Mr John Burrow, described unrealistic expectations in the military community regarding the availability of some benefits as well as a ' systemic failure within the DVA organisation…that many veterans, families and dependants do not understand what is available, who can help, identifying what's needed and obtaining the appropriate support to meet those needs'. He noted that there are very few sources willing or able to provide information on eligibility or 'a detailed description of entitlements and available benefits and then define the complexities of accepting various benefits and support'.[108]

5.77 Similarly, the RSL considered that 'DVA needs to significantly improve how it explains the overall MRCA and SRCA claims process'. It stated:

> The complexity of MRCA and the extended investigations into the range of entitlements (Permanent Impairment, Incapacity and Rehabilitation) are extremely opaque and therefore not able to be easily understood by those it is designed to assist, particularly when they are suffering from a mental health condition.[109]

5.78 A submission from a veteran who requested to be anonymous commented that a '[v]eteran whom may be suffering from a myriad of problems let alone mental illness can have great difficulties trying to find what they may be entitled to on the DVA website'. He suggested information 'needs to be placed in layman's terms and perhaps certain scenarios and flow charts put in place'. He stated:

> DVA needs to make this process easier for a veteran to decipher because they look at the website and think 'This is all too hard its doing my head in!' And don't get the help they are entitled to receive.[110]

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107 DVA, response to written question on notice from 6 February 2017 public hearing.

108 *Submission 189*, Supplementary submission, pp 3-4.

109 *Submission 216*, p. 11.

110 Name withheld, *Submission 302*, p. 6.

5.79 It was apparent during the inquiry that many contemporary veterans prefer to seek and discuss available support services on social media or email groups. For example, witnesses and submitters often referred to discussion on closed online discussion groups. ADSO underscored the need for awareness programs, pointing out that knowledge of available support services in the veteran community could not be assumed:

> ADSO monitors a significant number of social media sites frequented by younger veterans and their families. That exercise reveals that few are aware of the information available on either the Defence Community Organisation website or in DVA's Factsheets.[111]

5.80 However, a name withheld submission noted that many DVA clients received helpful advice from various closed Facebook groups. To reflect this he suggested the 'official DVA Facebook page needs some serious expansion, and more open and honest 2-way discussion'.[112]

5.81 Mr Max Ball also argued that DVA's communications and stakeholder engagement areas were not being proactive in monitoring and addressing issues raised in the veteran community. He illustrated this concern with an example of a widely circulated allegation against a DVA service. He stated:

> My immediate concerns over this allegation included that this email itself could cause stress amongst some veterans, that it should be investigated immediately and that the department should respond with alacrity to the veteran community on this matter, not with 'spin', but in a way that reflects public relations skills as compared to communication skills.[113]

5.82 RSL Tasmania highlighted a spectrum of DVA communication issues relating to clients and advocates. These included:

- excluding advocates from communications regarding veteran clients, particularly complex assessment surveys;
- leaving advocates to communicate adverse determinations to 'difficult' claimants; and
- poor quality determination letters containing 'little by way of reasoning'.[114]

5.83 The quality of correspondence was also highlighted by the TPI Federation which described some DVA correspondence as 'confusing, ambiguous and too legalistic'. It considered that this was an area to be addressed urgently. At the hearing, Ms Pat McCabe, President of the TPI Federation, indicated that DVA may be looking at the issue as part of the Project Lighthouse initiatives.[115]

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111 *Submission 172*, p. 6.

112 *Submission 306*, p. 2.

113 *Submission 323*, Supplementary submission 2, p. 3.

114 *Submission 169*, pp 16-20.

115 *Committee Hansard*, 5 May 2017, p. 26.

5.84 A common problem appeared to be DVA not registering or consistently using the advocates or lawyers nominated by veterans as their authorised representatives. For example, DFWA (Qld) cited repeated cases of delays in processing applications 'due exclusively to DVA contacting the Veteran direct and not using the Veteran's Authorised Representative (AR)'. It commented that it 'appears that DVA staff lacked visibility of the Veteran file due to its physical location interstate and inadequate IT support'.[116]

5.85 Examples of unreasonable, insensitive or inflexible approaches by DVA in communicating with veterans were also given in evidence. For example, Mr Peter Larter told the committee about a veteran he was assisting who had a diagnosis that was linked to service, but who had submitted his claim under the wrong scheme:

> He can put a claim in under the VEA, but actually the injury in the diagnosis was under the MRCA. The letter that he receives back—I know this verbatim I have seen it that many times—goes along the lines of, 'Your condition of PTSD is not related to service.' That is almost in the first paragraph and that is the decision. How do you think that member feels right now?[117]

### *Adversarial approach to claims*

5.86 A number of submitters and witnesses argued that DVA had developed an adversarial approach to claims by veterans.[118] This stance towards claims was considered inappropriate given the beneficial nature of the legislation for veterans being administered.

5.87 Often veterans described DVA as acting like an 'insurance company' in relation to claims by veterans with internal pressure on DVA staff to downgrade the severity of conditions.[119] RSL Tasmania thought that 'many of the delegates within the DVA who consider liability for claims lodged [under SRCA and MRCA]…approach the claims from a perspective similar to that used by assessors of insurance companies, and assess claims with a view to avoiding liability, rather than applying the principles underpinning beneficial legislation'.[120] Mr Raymond Kemp stated that his belief was that 'the vast majority of DVA delegates try their best reject the claim at the primary level'.[121] He stated:

> The adversarial approach leads to unnecessary stress on the veteran and also unnecessary costs to both the department and veteran. The VEA is meant to be beneficial legislation, however delegates go out of their way to be difficult…It seems to me minor disabilities are accepted without any

116 *Submission 148*, p. 4.

117 *Committee Hansard*, 5 May 2017, p. 15.

118 For example, Mr Guy Bowering, *Committee Hansard*, 17 November 2017, p. 39.

119 For example, Northern Suburbs Veterans Support Centre, *Submission 279*, p. 1.

120 *Submission 169*, pp 2-3.

121 *Submission 201*, p. 2.

> problem; however, the more serious ones are normally rejected at the primary level.[122]

5.88 Mr Kemp recommended that 'if a claim is to be rejected then a face to face arbitration session should be held between the delegate, his senior, the client and his advocate'. He noted that this should save money 'if the claim is then settled at that point'.[123]

5.89 Mr Rod Thompson thought this was a change departmental behaviour:

> The DVA since approximately 2010 have taken an adversarial approach to veterans across all areas of departmental responsibility purely to save money and limit liability, implementing policy designed only to delay and deny liability and compensation. When the issues are raised by complaint or through ESORT or other established channels the matters are dismissed, buried or in some cases handed to outsourced Law Firms with expertise in corporate damage control to snow over some very questionable behaviour by the Department.[124]

## Compensation for Detriment Caused by Defective Administration (CDDA)

5.90 The CDDA scheme provides a mechanism for compensation where a person has suffered detriment due to the defective actions or inaction of the Commonwealth Government. The CDDA Scheme is an administrative, not a legislative scheme. The responsibility for determining CDDA claims rests with the portfolio Minister and officers authorised by the Minister. Payments made under the CDDA Scheme are discretionary. This means there is no automatic entitlement to a payment.[125]

5.91 DVA's view was that it had a 'good record and has made significant improvements over time in dealing with claims under the CDDA Scheme'. During 2015-16, a total of $70,485.74 was paid by the DVA in compensation under the CDDA Scheme. DVA received 28 claims under the scheme in 2015-16. Of these the Secretary of DVA found defective administration occurred in seven cases.[126] DVA clarified:

> The number of claims received by the Department should be put into context with the overall number of decisions made by DVA. For example, rehabilitation and compensation delegates make more than 40,000 decisions a year and income support delegates make more than 50,000 decisions a year.[127]

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122 *Submission 201*, p. 4.

123 *Submission 201*, p. 5.

124 *Submission 334*, pp 7-8.

125 Department of Finance, The Scheme for Compensation for Detriment caused by Defective Administration (CDDA Scheme),

126 *Submission 156*, p. 39.

127 *Submission 156*, p. 40.

5.92 However, the committee received several submissions, including confidential submissions, which expressed dissatisfaction with CDDA as a mechanism to obtain compensation for defective administration by DVA and Defence.[128] A name withheld submission made the point that that rectifying administrative errors by DVA can involve 'unrecoverable accountancy costs and lost interest recovery on the underpayments, even if the cause of it all meets the requirements under CDDA'.[129] Further, Mr Alan Ashmore commented:

> Veterans who lodge a CDDA claim against DVA have almost no chance of success because:
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> - The approval of such claims is at the discretion of DVA.
> - Where DVA reject a CDDA claim and the Veteran has the Commonwealth Ombudsman decide in the Veterans favour, DVA are not required by law to follow the Ombudsman's recommendation, and,
> - Even when there is clear evidence of defective administration DVA will deny it, but instead will often acknowledge the case could have been better handled.
>
> This means the Veteran has virtually no chance of seeking justice for what the VRB and other appeal bodies determine are either clear errors or negligence on the part of DVA, or a combination of both. This makes a mockery of current and previous Prime Ministers promising to look after Veterans when they return not to mention the motto on DVA letterhead, 'Saluting their Service'.[130]

5.93 Maurice Blackburn Lawyers noted that the 'overarching principle of the CDDA scheme is to restore claimants to the position they would have been in had the defective administration not occurred'. It proposed that when 'assessing damages to determine the appropriate level of compensation, common law principles of the assessment of damages ought to be applied'. Further 'there should be allowance for the payment of legal costs and disbursements to provide assistance for claimants to prepare their CDDA application at 100% of the Federal Court of Australia's Scale of Costs'.[131]

## Conclusion

5.94 Amongst the agencies of the Commonwealth Government, DVA is one of the oldest and most stable departments. However, the overall impression the committee received during the inquiry was that DVA administrative capabilities have been gradually run down over a significant period. Reduced levels of staffing, the impact of the efficiency dividend and a lack of investment in efficient ICT has had an increasingly negative impact on the administration of claims by veterans. Over time

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128 For example, Dr Phoebe Donaldson, *Submission 128*, p. 1.

129 *Submission 306*, p. 3.

130 *Submission 87*, p. 3.

131 *Submission 451*, p. 15.

piecemeal reform in the portfolio has often resulted in additional complexity rather than streamlining administration. At the same time, a gradually changing client base of veterans has imposed additional stresses on the workload of DVA.

5.95 The evidence to the inquiry indicates some urgent areas for administrative reform identified by Professor Dunt in 2009 and by the APSC Capability Review in November 2013 have not been adequately addressed. In this context, recent appropriations by the Australian Government to support major transformative change are welcome. Important administrative reform is starting to occur, but the pace does not reflect the importance of the outcomes for veterans and their families.

5.96 Perhaps the most concerning evidence the committee received related to veterans who gave up their claims in frustration before they had even received a final determination due to their adverse experiences in the administration of their claims. A number of veterans (and partners of veterans) explained that they would not speak or engage with DVA staff again due their negative experiences.

5.97 Recent improvements by DVA highlight the potential of further reform to administrative processes. The committee recognises that this transformation process will require time and substantial resourcing. Accordingly, the committee urges the Australian Government to continue funding future appropriations to ensure the next stages of the DVA reform program are undertaken in a timely manner.

5.98 In particular, the committee reaffirms its recommendation that DVA be adequately funded to achieve full digitisation of it records and modernisation of its ICT systems by 2020, including the introduction of a single coherent system to process and manage claims.

**Recommendation 7**

**5.99 The committee recommends that the Australian Government continue to support the 'Veteran Centric Reform' program within the Department of Veterans' Affairs.**

5.100 The committee considers that the interim measures to assist with claims processing should be continued and expanded until the benefits of the Veteran Centric Reform can be fully implemented. In particular, the budget initiatives to alleviate pressure on claims processing staff and to reduce the backlog associated with increasing claims and to increase the number of case coordinators should continue. If significant benefits for clients are derived from these measures, consideration should be given to expanding them further.

**Recommendation 8**

**5.101 The committee recommends that, while the Veteran Centric Reform program is being implemented, the Australian Government continue to fund measures to:**

- **alleviate pressure on claims processing staff and to reduce the backlog of claims; and**
- **increase case coordination staff to assist clients with complex needs.**

5.102 Maintaining high client service standards is a constant issue in any department where there is a turnover of staff or where non-ongoing staff are employed. DVA also faces this challenge. Given the concerns raised regarding the conduct and expertise of DVA staff in submissions to the inquiry, the committee considers DVA should re-examine its training programs directed to delegates and those other staff dealing with veterans making claims for compensation and rehabilitation.

**Recommendation 9**

**5.103 The committee recommends that the Department of Veterans' Affairs conduct a review of its training program to ensure relevant staff:**

- **have an understanding of the realities of military service;**
- **have an understanding of health issues of veterans;**
- **have appropriate communication skills to engage with clients with mental health conditions; and**
- **have sufficient training to interpret medical assessment and reports.**

5.104 The committee supports the efforts by DVA, Defence and CSC to implement a Single Medical Assessment Process to minimise situations where veterans are required to attend multiple medical appointments. Many veterans were dissatisfied with their experiences at medio-legal firms. Several objected to being required to attend appointments with a medical practitioner who was not their own treating specialist. In the view of the committee, DVA needs to reassess its use of medico-legal firms to ensure that these assessments being contracted are appropriate for the conditions of veterans, particularly in the case of mental health conditions.

**Recommendation 10**

**5.105 The committee recommends that the Department of Veterans' Affairs review its use of medico-legal firms in relation to the assessment of the conditions of veterans. In particular, this review should confirm:**

- **assessments undertaken are appropriate to the conditions considered;**
- **that the medical professionals used have undertaken training on treating veterans and can demonstrate their expertise working amongst this client group; and**
- **the need for independent medical assessments where information is already available from the veteran's own doctor or treating specialist.**

5.106 DVA should also take the opportunity to review its communication strategies and awareness raising activities concerning services and benefits available to veterans. The diverse nature of the veteran community is a challenge. While older veterans are not reliant on online resources, contemporary veterans expect online resources to be available. In the view of the committee, there is room for DVA to enhance its digital communications through social media to reach younger veterans. Proactive and responsive engagement online can operate to identify current issues and direct veterans to the most appropriate resources and correct circulated information which is misunderstood or incorrect.

**Recommendation 11**

**5.107 The committee recommends the Department of Veterans' Affairs expand its online engagement with younger veterans through social media to raise awareness regarding available support services.**

***Independent administrative review***

5.108 The NMHC's report recommended that the 'Australian Government should commission an economic study of the current expenditure (within Defence, Veterans' Affairs, Health, Human Services and Social Services) on health, welfare and disability support for current and former Defence personnel and their families, and consider whether there are superior models for supporting optimal health and wellbeing of current and former members and their families, including models that separate compensation, liability and health care provision'.[132]

5.109 However, the Government response stated:

> The link between compensation and health care for mental health conditions has already been separated through the provision of non-liability heath care under DVA arrangements. Given this separation and other Budget 2017 initiatives of pro-active intervention, the proposed economic study would have limited value. DVA and Defence are focussing on wellbeing and participation models that are acknowledged as leading to better outcomes for members and veterans.
>
> The Australian Government Actuary annually estimates the liability of the SRCA and MRCA schemes.[133]

5.110 Broad ranging proposals for reviews of administrative issues relating to veterans were made by submitters during the inquiry. For example, Dr Catriona Bruce and others recommended the '[i]nstigation of a Productivity Commission review of the administrative affairs of DVA with a focus on efficiency, wasted administrative funding, cost-effectiveness of assessment procedures and spending and actual payments made to veterans'.[134] The committee agrees that the independent review by the Productivity Commission it has recommended should not be limited to the legislative framework and should also examine administrative responsibility and service delivery to veterans.

5.111 Some veterans expressed concern that future reform could result in some of the responsibilities of DVA being transferred to the Department of Human Services (DHS) or be delivered through Centrelink. The committee notes that the Minister on 7 August 2017 has confirmed that DVA will remain a stand-alone department and there are no plans to merge DVA with DHS.[135] The unique nature of military service

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132 NMHC report, p. 52.

133 Government response to NMHC report, p. 68.

134 *Submission 171*, p. 2.

135 The Hon Dan Tehan MP, Minister for Veterans' Affairs, 'No Change', *Media release*, 7 August 2017, p. 1.

means that there will always be a need for a specific agency responsible for the welfare of veterans, however the committee considers that the administrative role of DVA should be critically examined.

5.112 In the committee's previous inquiry into mental health of ADF and veterans, the committee stated it was not convinced that mandating statutory time limits for claim determinations would benefit veterans as it may have unintended consequences. However, statutory measures can operate shape administrative practices to deliver more timely outcomes for clients. Given the NMHC view on this topic, the committee considers this matter should be reassessed as part of independent review by the Productivity Commission. Delays in the processing of claims, and the uncertainty that resulted, were key stressors on veterans.

**Recommendation 12**

**5.113 The committee recommends that the reference to the Productivity Commission should also include examination of the following areas in the Veterans' Affairs portfolio:**

- **governance arrangements;**
- **administrative processes; and**
- **service delivery.**

5.114 The committee notes that the ANAO has indicated a potential audit of DVA's delivery of services to its clients for 2017-18.[136] The ANAO's work consistently provides valuable insights into effective public administration. While the ANAO review will not cover the breadth of issues which submitters have raised, an ANAO performance audit of the 'Efficiency of veterans service delivery by the Department of Veterans' Affairs' will complement and reinforce the work of administrative review by the Productivity Commission recommended by the committee. Given the evidence received during the inquiry, the committee consider the ANAO should undertake this proposed performance audit as a matter of urgency.

**Recommendation 13**

**5.115 The committee recommends that the Australian National Audit Office commence the proposed performance audit of the 'Efficiency of veterans' service delivery by the Department of Veterans' Affairs' as soon as possible.**

136 ANAO, 'Efficiency of veterans service delivery by the Department of Veterans' Affairs: Potential audit 2017-18', *Annual Audit Work Program 2017-18*, available at https://www.anao.gov.au/work/performance-audit/efficiency-veterans-service-delivery-department-veterans-affairs (accessed 11 August 2017).