

REGULAR DEFENCE FORCE WELFARE ASSOCIATION INC NATIONAL OFFICE

ABN 49 929 713 439



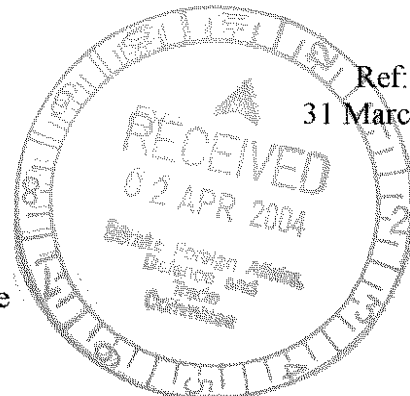
PO Box 4166, KINGSTON ACT 2604

Telephone: 02 6265 9530

Facsimile: 02 6265 9776

Patron: His Excellency Major General Michael Jeffery AC CVO MC (Retd)
Governor-General of the Commonwealth of Australia

RDFWA



Ref: 65.27
31 March 2004

The Secretary
Senate Foreign Affairs, Defence and Trade References Committee
Parliament House
CANBERRA ACT 2600

Dear Sir,

INQUIRY INTO CURRENT HEALTH PREPARATION ARRANGEMENTS FOR THE DEPLOYMENT OF AUSTRALIAN DEFENCE FORCES OVERSEAS

In the course of the above inquiry, Senator Mark Bishop (Hansard 26 February 2004, page 6) asked two questions to which we were unable to make a substantive reply and about which the Association undertook to provide further information. The following information is provided in response to that undertaking.

Senator Bishop referred to a current system that required a 'very rigid' approach, that placed an 'inordinate responsibility' on individuals to access information and that 'resists, almost by design' speedy and efficient resolution of claims. (This latter criticism the Senator also laid at the feet of the Department.)

While it is undoubtedly true that most claims that fail at the primary decision-making stage do so as a result of there being insufficient information in the hands of the delegate to make a decision in favour of the applicant (this is usually indicated in the phrase 'There is no evidence of...' in the 'Reasons for Decision'), the description given by the Senator may be a little harsh on those attempting to do a fair job on behalf of veterans: there are certainly grains of truth in it, however.

Under s17 of the Act, the Secretary DVA is obliged to investigate the claim, and submit it, together with the results of the investigation, to the Commission for determination. In practice, this very rarely happens. The delegate, with his/her 'Secretary' hat on, almost never identifies deficiencies in the information supplied in support of the claim, and seeks to have them rectified - as he/she might, if genuinely 'investigating' it - and almost never contacts the claimant or his/her representative to advise him/her of any problems that are likely to arise as a result of deficiencies in information supplied. With his/her 'Commission' hat on, the delegate (usually the same person as the 'investigator') invariably determines the claim on the basis of the material in front of him/her. As a result, the onus is always on the claimant to supply whatever information he/she imagines the delegate will need to consider the claim fully and fairly. Often the claimant is assisted in this sometimes daunting task by a trained advocate or representative.

The reasons for the Department's failure to investigate claims before determination are, in our opinion:

- . A lack of knowledge and experience on the part of primary decision-makers
- . The general lack of understanding of the circumstances of military service likely to have been experienced by veterans
- . Pressure on resources
- . Pressure to resolve claims quickly
- . A cultural inhibition which arises out of a genuine sense of custodianship of resources, and which expresses itself in a reluctance to do the claimants job for him/her - a sort of *caveat emptor* approach.

The second situation described by the Senator is that of the claimant (and, by implication, his/her representative) 'playing a game' by fitting a story to the existing guidelines or SOP. In our view this is a misleading description of the situation in which a claimant often finds himself/herself, and which we have referred to above.

There is no doubt that in too many cases the applicant feels obliged to 'second guess' the decision-maker by anticipating his/her thought processes in interpreting guidelines and/or obtaining documents or other evidence which is likely to be considered relevant by him/her in determining the claim. But this must by no means be interpreted as 'fitting' or adapting the facts about the circumstances of a claimant's service to fit the decision-maker's requirements. But as far as the RDFWA is concerned, no claimant is advised to submit in support of his/her claim supporting material that is not in every way accurate and truthful. Nor will we act on behalf of any claimant where we are not convinced of the merit of the claim. The requirements of the Act are paramount in our giving of advice, and compliance with those requirements is our primary consideration in acting for a veteran in any individual case,

Yours sincerely,



J A Paule
National Secretary