

such as what vocational, education and training options are offered, school leaver destinations, the professional qualifications of teachers and professional development undertaken by teachers. Reporting against measures and targets such as the literacy and numeracy benchmarks, will include reporting by students' sex, Indigenous status, socioeconomic background, language background and geographic location using the national definitions being agreed through MCEETYA.

The Australian Government accountability and reporting requirements apply equally to government and non-government schools.

Recommendation 7

The committee recommends that, pending discussions with state and territory governments through normal MCEETYA processes, the Government should be mindful of the rights of states and territories to legislative and administrative autonomy with regard to the operation of schools. The Government should not use school funding legislation as a vehicle to impose on the states and territories policies and practices that would normally be the subject of agreement through MCEETYA.

Response

The Australian Government is the single largest funder of school education. As such it has the right to set financial, policy and administrative directions. The Australian Government will exercise its leadership role in schooling in areas where national reform is required. This may involve consideration by Ministers through MCEETYA processes on specific matters. However the Australian Government has the right and the responsibility to attach conditions to its very significant schools funding to ensure that important reforms are implemented.

INQUIRY INTO ADMINISTRATIVE REVIEW OF VETERAN AND MILITARY COMPENSATION AND INCOME SUPPORT

I refer to your Committee's report on Administrative Review of Veteran and Military Compensation and Income Support which was tabled on 4 December 2003.

I have noted the four recommendations made in the report to which I make the following responses:

Recommendation 1

The Committee recommends that the Australian National Audit Office conduct an audit of the reported practice of the Military Compensation and Rehabilitation Scheme using private law firms for the purpose of the entire reconsideration of the original decision. It also recommends that DVA, in consultation with the ANAO, establish guidelines for private law firms in providing advice to ensure that the authority of delegated decision-makers is not being bypassed. (Para 5.54)

Response

Agreed in principle, although I note that the program of ANAO audits is a matter for the Auditor General. Guidelines on the use of private law firms have been agreed by the Military Rehabilitation and Compensation Commission, which assumed responsibility for the Military Compensation and Rehabilitation Service on 1 July 2004. Those guidelines will be reviewed by the Military Rehabilitation and Compensation Commission in the light of any subsequent ANAO recommendations.

Recommendation 2

The Committee recommends that the future administrative review process under the new Military Rehabilitation and Compensation Scheme (MRCS) should be the same for all ADF and ex-ADF personnel. All appeals to the Administrative Appeals Tribunal should be heard by one Division which might be titled the Military Division. This new process does not apply to the existing review process under the MCRS (Para 5.68).

Response

Agreed and already adopted in part.

The Military Rehabilitation and Compensation Act 2004 (MRCA) provides appeal paths that are available to all claimants. These appeal paths are the same for both current and former ADF personnel.

The recommendation for one Division of the Administrative Appeals Tribunal to deal with claims under the MRCA and the Veterans' Entitlements Act 1986 is a matter for the consideration by the

President of the Administrative Appeals Tribunal and the Attorney-General as this would require an amendment to regulation 4A of the Administrative Appeals Tribunal Regulations 1976 (AAT Regulations). I am able to advise the Committee that agreement in principle has already been reached with both the President of the AAT and the

Attorney-General for such an amendment to be made to the AAT Regulations to implement this part of the recommendation.

Recommendation 3

The Committee recommends that in order for ex-service organisations (ESOs) to provide an adequate and sustainable advocacy service, funding arrangements for the TIP and BEST programs should be reviewed in order to improve the effectiveness of the programs. Funding for the programs should be on at least a bi-annual basis to enable ESOs to make better use of their available financial resources. (Para 5.94)

Response

Agreed in part. As part of the 'Saluting Their Service' election commitment, the Coalition Government committed additional funding of \$9.2m over 4 years for BEST and TIP. The BEST grants will be increased by \$1.7m per year and TIP by \$0.6m per year. An additional round of grants funding and TIP allocation will occur this year to take account of the additional funding.

I have responsibility to allocate the BEST grants money and the Department allocates the TIP funding at the beginning of the financial year. This allows the ESOs to plan their activities and allocate resources for the full financial year. In addition one round per year minimises administrative requirements for the applicants. It is our understanding that the majority of the ESO community would wish to continue this arrangement. Therefore it is proposed to continue with the existing one allocation of funding per year.

Recommendation 4

The Committee recommends that a two-year trial be initiated in one State with the agreement of the veterans organisations in that State for a variation to the existing review process. That new process should include:

- the introduction into the VRB of pre-hearing mediation and conciliation processes as currently employed in the AAT including the presence of the claimant, the advocate and the DVA;
- an increased use of VRB Registrars to ensure that applications are not deficient with regard to all necessary supporting material, including medical evidence;
- enhancement of medical disbursements prior to the VRB. The disbursements are to be equivalent in value to those currently available at the AAT, but once they are taken they are not to be made available a second time should there be a further appeal to the AAT; and
- the same legal aid provisions that exist under the current review mode (Para 7.34).

The Committee also recommends that DVA undertake a review of the trial at the conclusion of the two-year period. The review should assess the outcomes of the trial against a set of performance indicators to determine whether there is scope either to extend the trial period or introduce the revised VRB process in other States and on a permanent basis. The review and any decision to introduce a revised process should proceed in consultation with all major stakeholders (Para 7.35).

Response

Not generally agreed. While the scope for earlier resolution of applications for review is supported, the particular strategy proposed in the recommendation would give rise to certain anomalies and administrative difficulties.

The essential concerns about the general proposal are as follows:

- It would create a two tier system at the intermediate level of external review. Hence a preliminary conference at the VRB could be seen as simply another step in an already full hierarchical system consisting of a primary decision, internal review under section 31 of the VEA, review at the VRB, preliminary conferences on an appeal to the AAT, and a substantive hearing before the AAT.

- The proposed trial could only go ahead if the Repatriation Commission were represented at the preliminary conference. This in itself may cause difficulty in that the present quality of veterans' advocates is variable and participation in a conciliation conference is possibly beyond some of the veterans' advocates that presently appear at the VRB. It has the potential to introduce an adversarial element in a review process in which the Repatriation Commission currently chooses to exclude itself. This would be counter-productive to the stated aim of early resolution of claims.
- It would call for a staff restructuring at the VRB which would be expensive. The Repatriation Commission would also require additional resources to provide representation.
- It would eliminate the element of service experience in the first step in external review. At the present time each VRB panel includes a Services Member. The ex-service community places considerable importance on the presence of this member in the 3 member, intermediate level tribunal. Provision for a conference registrar would eliminate this aspect, at least as a first step in external review.
- If a preliminary conference failed to resolve an appeal it would simply add to the time taken to reach completion.
- The enhancement of medical disbursements prior to the VRB is not agreed at this time. The proposal would seem to create a risk of greatly expanded cost for the larger number of applications dealt with at the VRB. Should further medical reports be necessary it is open to the VRB to request such reports from the Repatriation Commission under section 152 of the Veterans' Entitlements Act 1986.
- While the legal aid recommendation is agreed to in principle, it is noted that legal aid is the responsibility of, and a matter for implementation by, the Attorney-General's Department.

As an alternative, the VRB is presently upgrading staff and developing new roles to improve the process of resolution of appeals at the VRB level.

A general concern has arisen out of the number of 'unrepresented' applicants who often do not un-

derstand the material that must be considered or the type of information that should be presented to the VRB. The general aim is to train staff to a level that they can discuss such issues with veterans—initially the 'unrepresented' veterans (or widows) and subsequently any veteran, widow or representative. The staff will not be expected to 'make a case' for an applicant but should be in a position to indicate the particular decision-making steps of the VRB and the place of particular supporting material in those steps.

This alternative recognises the complexity of the VEA, the variable quality of ex-service organisation representation, the fact that in some cases veterans do not seek any assistance, and the utility of careful collation of all relevant supporting material prior to a VRB hearings. The process should be built into the usual presentation of material to a hearing and would complement the Committee's recommendation about enhanced use of the VRB Registrars. It would not require attendance by the Repatriation Commission.

Thank you for the opportunity to comment on this report.

**GOVERNMENT RESPONSE TO JOINT
STANDING COMMITTEE ON FOREIGN
AFFAIRS, DEFENCE AND TRADE REVIEW
OF THE DEFENCE ANNUAL REPORT
2002-03**

Recommendation 1:

The committee recommends that in 2005 Defence should undertake another review of the conditions of service for Australian Defence Force members on the Army ATSIIC Community Assistance Program (AACAP) projects to ensure that there are no anomalies in conditions of service and that they are commensurate with the work performed. (paragraph 4.24)

Government Response:

Agreed. Defence will undertake a review of the ATSIIC Army Community Assistance Program conditions of service in 2005. The scope of the review will focus on whether current allowance rates appropriately recognise the arduous conditions and duration of the ATSIIC Army Community Assistance Program tasks.