

6 September 2024

Department of Veterans Affairs
Institute of Veterans' Advocates Consultation Team

To the DVA Consultation Team

Submission on the consultation paper "A new Institute of Veterans' Advocates"

Thank you for the opportunity to submit to this important process on behalf of Kathryn Stanford Consulting (KSC). KSC appreciates this opportunity, and we look forward to the development and establishment of this important body.

KSC strongly supports the idea of an Institute of Veterans Advocacy, a code of conduct and a robust and useful training program, both initial and ongoing. In recent communications with the Department and the Minister for Veterans Affairs and their office, KSC has advocated for this framework and is excited to be part of this positive change.

About KSC

Australian veterans Luke Armstrong and Matt Dumars established KSC as a private veterans' advocacy company to help Australian veterans. Based on our own experiences with the DVA claims process, we began assisting others with their claims, and eventually, this grew into a business. Initially, with no marketing, veteran needs and word-of-mouth recommendations drove new clients. Those recommendations depend on delivering an excellent, ethical service with great results while showing veterans respect, empathy and professionalism.

We have assisted over 1,500 veterans with DVA claims since March 2020. This advocacy experience equips us with unique perspectives on DVA, the claims process, and some factors within the Australian Defence Forces (ADF) that lead to claims.

We are a commercial business with a commission-based, no-win, no-fee model. This has led some stakeholders to voice criticism of KSC's business model in public forums.

While KSC's model may be different to the typically free advocacy services provided by most RSLs and other advocacy organisations, KSC's existence and the continued demand for our services also provide us with valuable insights into the VSO landscape.

Submission in detail

Having considered the consultation paper, KSC submits the following in detail.

The Institute of Veterans Affairs

KSC strongly supports the creation of an Institute of Veterans Affairs in the terms outlined in the consultation paper. Our organisation was founded in response to the difficulties we faced in navigating the complex claims environment and a desire to assist our fellow veterans. The proposed Institute of Veterans Affairs is likely to elevate advocacy services for veterans and improve their interactions with the claims process.

Governance

KSC supports the structure of the board as outlined in the consultation paper, with one amendment.

KSC submits that greater clarity be provided on the intended membership of the Institute's Board. To ensure diversity in representation, it is worth stipulating the following (* flagging nuanced changes):

- The Chair
- An ESO (free advocacy) representative*
- A fee-for-service advocate representative*
- An Australian Defence Force/serving member representative
- A families representative, and
- One DVA ex-officio member and one Department of Defence ex-officio member (to ensure ongoing connection and alignment of effort).

Free and fee-for-service advocates have very different operating models, value propositions and different services. This amendment would ensure the board has expertise from a broader range of advocates, with fee-for-service advocates able to provide a unique perspective on their experience in service delivery.

Keeping the list as it is currently, leaves the door open to the very real prospect of RSL representatives having two seats on the Board.

Membership

KSC supports the proposed membership structure in the consultation paper and makes the following observations.

- In our opinion, all members of the Institute of Veterans Advocates should complete a module on the DVA claims process, regardless of their background and experience. Training should be redesigned and should not be reliant on present ESO procedures, as current ESO mentorship requirements are outdated and cumbersome. KSC suggests that training should be provided online by DVA and could be digitised.

- A separate training module on marketing and advertising standards should be mandatory for all fee-for-service advocates, which should include verbal as well as print/digital statements. Misleading statements and hidden fees have a huge impact on Veterans' perceptions and expectations of outcomes and, by extension, their mental health. Advertising in a manner that unrealistically inflates expectations should be prohibited by the Code of Conduct, addressed below.
- A 'recency of practice' standard should apply, whereby membership of the IVA should lapse if the individual or corporate is not actively engaged in the business of interacting with the DVA. KSC proposes a period of two years between claims before membership lapses. In addition, if an advocate has not made claims or interacted with DVA in the last two years, a mandatory re-training program should apply to access membership. KSC believes the system employed by the AHPRA (Australian Health Practitioner Regulation Agency) and related Medical Board of Australia codes of conduct, are relevant and could act as a template.
- Contrary to the consultation paper, KSC suggests an annual membership fee should be applied at an individual and corporate level to ensure the IVA's members are both current and experienced, even over the passage of time. The membership fee would ensure sustainability of the IVA, and could be used to provide more services. KSC believes a price signal should exist for membership to create value for the membership in the view of members or prospective members. This practice is adopted by other professional representative or industry bodies.

Ethical and service and standards

KSC supports the introduction of a Code of Conduct or Code of Ethics, consistent with the model outlined in the consultation paper, to act as a 'rule book' for both fee-for-service and free advocate firms.

KSC believes a code of conduct/ethics and a set of industry standards are essential to the proposed IVA's success. Public and veteran confidence in the proposed IVA is essential to not only its success but by extension, outcomes for veterans. KSC submits an appropriate code of conduct or ethics will ensure the quality of the services offered and protect against unconscionable operators.

KSC makes the following specific observations for possible inclusion in the Code of Conduct:

- KSC suggest the Law Council's Code of Conduct is the gold standard and worthy of emulation or significant influence on IVA's code of conduct, specifically rules 5, 7 & 36¹.
- Statements of possible outcomes (for example, "we achieve 6 figure compensation payouts for veterans' service-related conditions") should be banned in any marketing, advertising and verbal guidance. Outcomes are not in the control of the advocate and therefore should not

¹ <https://lawcouncil.au/policy-agenda/regulation-of-the-profession-and-ethics/australian-solicitors-conduct-rules>

be allowed as they are misleading. This element should be incorporated into training described above.

- As canvassed in the 'membership' section, a 'recency of practice' standard should be incorporated into the code of conduct.
- To ensure clarity, there should be one code of conduct that applies to all providers. KSC recognises that fee-for-service and free-service advocates often have different service offerings and understand that some elements of the code of conduct cannot apply to both. However, to ensure there is no confusion between codes of conduct, all relevant behaviors should be listed in the same document.
- The code should be clearly numbered so as breaches and complaints can be identified easily.
- The code of conduct and standards should consider data storage. Data should be backed up to cloud storage or a dedicated server and should be available for at least 7 years after a claim is made. This ensures both secure storage of client data and the ability to review in details case files in case of any compliance issues. For security purposes, data should also be stored in Australian data centers.
- The code of conduct as it relates to billing, payments, client money and the use of Trust accounts should be clear and unequivocal. KSC again suggests the Law Council Code of Conduct as a proven template that outlines all aspects of standard regarding funds.

Member benefits

KSC supports the member benefits as outlined in the consultation paper and suggests that veteran-led businesses should be defined and accredited by the IVA, or at the very least, highlighted in the IVA's public list of advocates. This is the simplest method of providing comfort to some members of the veteran community that services and issues are well understood by the advocates.

Functions

KSC supports the functions as outlined in the consultation paper.

KSC further submits that the IVA should have the specific right to audit any member firm including detailed document requests to ensure compliance and suitability. An audit would assess compliance with privacy laws, training, advertising/marketing, and record keeping/storage and other matters addressed by the code of conduct. Identified breaches of the code of conduct would result in membership forfeiture. Audits could occur onsite or online.

Conclusion

KSC strongly supports the establishment of an Institute of Veterans Advocates as a positive step towards strengthening the DVA claims industry and, by extension, improving veterans' outcomes. After all, that is the purpose of our organisation and other advocates around Australia.

Our offer of support is open-ended, even if it's to seek clarity on the most trivial issues in our sector. As we wrote in our own submission to the inquiry, if the system can be improved, we are here to help.

Thank you once again for the opportunity to submit to this process.

Yours sincerely

Luke Armstrong

Matt Dumars