



## Submission on DVAs consultation paper for a Veterans Advocate Institute

Having read the consultation paper, I make the following points as an individual who has recently undertaken the claims process (to completion) as well as being experienced as a board director of veteran's organisations at both state and local.

1. Overall and most importantly this Institute further endorses the 'band-aid' solution with the Veterans Legislation Bill. The Institute does NOT go to the root problems of the claims process. As Veteran Advocates (not to be mistaken for DVA claims advocates), we should be calling for solutions that negate the need for claims advocates in the first instance. Or at the very least, significantly reduce the need for them.

Putting aside the issues with the claims process being adversarial. The root problems stem to a misunderstanding of when the claims process begins. It doesn't start when a veteran submits a claim, the true commencement occurs when the veteran is injured (or has an illness) and receives first treatment. In the significant majority this occurs when the claimant is still serving in the ADF. The two issues flowing from this are:

- a) underreporting. The stigma attached to reporting injuries/illnesses and the ongoing impact to service; and
- b) Government diagnosis and treatment not being recognised. When a member attends their military health centre, they are being treated by a government employed medical officer. It is at this time that the 'service connection' for injuries/illnesses should be made to reduce the wasteful duplication of commonwealth public money. An easy process that can be incorporated into their rehabilitation program process.

Once these injuries/illnesses are investigated (which processes already exist within Defence through their Sentinel reporting), the government liability can then be accepted on their Defence Health Record. With the Defence/DVA IT access project, the Veteran's record can be 'pushed' across to DVA (with a list of liability accepted injuries/illness) and is there ready and waiting for the veteran to make a claim for entitlements in the future (if they chose to). This would significantly reduce the need for liability delegates within DVA and as a result a significant reduction in the need for claims advocates. It also overcomes the likelihood of a future backlog in claims if another conflict occurs; which has proven to overwhelm the DVA claims process. A truly simplified process will enable earlier access to treatment and care for the veteran. And for those with injuries/illnesses with liability accepted whilst still serving, there is no disruption to treatment while waiting for a second government department (DVA) to assess a claim (which the current legislation relies on).

Therefore, rather than wasting money and resources in establishing a claims advocates institute, we should be addressing the root problems first. Then, as a veteran's community we can address the standard of claims advocacy knowing what the real need of claims advocates would be. Under the current (and future model with the proposed Institute), DVA is turning the claims process into a business industry upon itself. And it is an industry that we don't really need when focusing on the issues in the claims process.

Address the systemic and root issues first before individuals and companies establish more business around an 'claims advocates needs model', before the government wastes more commonwealth public funds, and before we can claw back an unneeded industry that will continue to unnecessarily grow. This current (and proposed model aligning with the veteran's legislation bill) will morph into the same uncontrollable monster that the NDIS scheme created. Quoting the Deputy Prime Minister, Mr Richard Marles, from his evidence at the Royal Commission *"You know, history will be our judge and I just want the families to know that we are deeply mindful that in all that we do, we will not be able to escape the judgment of history and we are utterly focused on making sure that this -- your work and our response to it results in meaningful change."* So, how will history judge the current Government, the Minister for Veterans Affairs - Mr Matt Keogh, and his department in how and why they established this Institute?

**2. Language is important.** Just like the misconception of the term 'ESO' (most of the Veterans Organisations are not just for Ex-Service), the name of the Institute needs to capture what it actually stands for. A veterans' advocate is someone who advocates on behalf of veteran issues. A veterans' advocate is NOT someone who just assists with DVA claims on behalf of a veteran. Whatever the name of the Institute, it cannot misrepresent the term 'Veterans' Advocate'. Call it a 'Veteran Claims Advocate Institute'.

It should be a responsibility of the Institute to clearly define these terms and ensure claims advocates do not misrepresent themselves as a veterans advocate. This must form part of the code of conduct for a claims advocate.

**3. Independence.** The establishment of the Institute **MUST** be independent from DVA. The purpose of claims advocates is to represent the interest of veterans during the claims process. Any actual or perceived link to DVA undermines the trust placed upon those claims' advocates with their clients and the public. This means the Institute cannot be established with any physical or resource connection with DVA. Therefore, staffing for the Institute should not have any formal or informal association with DVA.

I would suggest the Institute should be formed under the "ESO" (or correctly termed Veterans' Organisation) Peak Body – once established. This is where the objects of the Institute best align.

**4. MyService.** If there is going to be increased access to MyService by Claims Advocates, then there needs to be increased auditing functionality. Not just recording of access and use, but routine auditing/interrogation of use to ensure there is no abuse with access to personal information. Anomalies of access in these routine audit reports should be reported to the Institute for investigation (external oversight of conduct) to identify and manage any individuals within their code of conduct as a claims advocate.

**5. With respect to members who belong to other professional bodies and making a complaint,** it should be a simple process for the complainant. The Institute should be the single point of contact for complaints regarding DVA claims advocacy. The institute should have a team responsible for managing these complaints and for those advocates identified as belonging to another professional body, the complaint is forwarded to that regulatory body by the Institute. This doesn't mean that the complaint is hands off for the Institute, the institute should remain as the conduit for the complainant. Therefore, any findings by the external regulatory body can be provided back to the Institute to ensure firstly the complaint has been appropriately dealt with on behalf of the complainant, but

also secondly that any findings can be examined by the Institute for ongoing best practice considerations for DVA Claims Advocacy.

6. 'Public Endorsement'. The consultation paper mentions "DVA Approved" advocates. This is not a public endorsement that should be sought after. Any publicity should be as "Institute Approved" advocates. Otherwise, it gives the perception of advocates only being approved by the agency to which they will be advocating against. This goes hand in hand with 'Independence' and why the Institute should have no formal or informal ties to DVA.

7. Institute Accredited Claims Advocates. For accreditation, the Institute should play a role in approving the training (ADTP) to ensure it aligns with best practice. Furthermore, accreditation for DVA staff and volunteer advocates should be contingent on a period of separation. For DVA staff, there should be a period of separation (12mths?) from DVA before being eligible for accreditation as the nature of representation of a Veteran is much different to that of representing the government. For volunteer advocates who have received the ADTP training, there should be a break in service as a volunteer, before accreditation can be provided as a fee-based advocate (the obvious reasoning being the access to free ADTP as a volunteer). These would build in processes to avoid conflicts of interest for claims advocates.

8. Schedule of Fees for fee-based claims advocates. For veteran clients that choose to use fee-based advocates for representation at the VRB and tribunal, the Institute should be responsible for working with these two agencies in establishing a fee schedule for costs determinations only in the event the veteran is successful. Likely, this would align with the 'recommended rates' for fee-based claims advocates as determined by the Institute.

9. Alternate model for an Institute. Has the concept of establishing the Institute under a Law Society been considered? As claims advocates deal with commonwealth legislation, it would make sense to establish the Institute as an agency of the ACT Law Society rather than establishing branches in each state under their respective state/territory law societies. Providing government funding to the ACT Law Society for the establishment of an adjunct Institute for Claims Advocates would provide a truly independent model with established professional management processes and experience. This would help streamline any crossover with claims advocates who belong to other professional bodies. It appears the government just wants to reinvent the wheel instead of leveraging off an already established professional oversight body or the government wants to control the claims advocates through a model whereby the Institute is owned and managed by DVA (with some subterfuge).