

30 September 2024

The Secretary
Department of Veterans' Affairs
GPO Box 9998
CANBERRA ACT 2600

Dear Secretary

RE: Concerns and Recommendations Regarding the proposed Institute of Veterans' Advocates

Legacy's mission is to ensure that no dependent of a veteran suffers financial or social disadvantage because of their loved one's death or injury from service, and we serve over 30,000 individuals through our programs and services. Given our long-standing commitment to supporting veteran families, we have a vested interest in the successful implementation of reforms within the veteran support framework. Legacy's model of care differs from other organisations, as our membership provides services to the veteran family cohort for their entire lifetime. Service provision is client-centred and tailored to the unique needs of families of veterans, and specifically designed to empower and support to build a sustainable future, when they need it most.

Legacy Australia would like to share our concerns and recommendations regarding the establishment of the Institute of Veterans' Advocates. From the outset, Legacy supports that the Advocacy Training and Development Program (ATDP) should be administered by an independent body.

1. Timing and Implementation of Reforms:

Legacy acknowledges the intention to improve the quality and consistency of advocacy services through the establishment of the Institute of Veterans' Advocates. However, we have concerns about the timing of this initiative, particularly given the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024, currently before the senate. This Bill is set to take effect on 1 July 2026. Introducing a new system for advocacy training and accreditation at this time could cause unnecessary angst amongst the Veteran and Family advocacy community. This, along with the recommendations of the Royal Commission into Defence and Veteran Suicide, places unnecessary pressure on advocates and ESO's.

This may lead to unnecessary disruption and confusion, especially since significant legislative changes are on the horizon. We urge that any reforms be carefully aligned with the upcoming legislative harmonization to ensure a seamless transition for advocates and those they serve.

2. Addressing the Challenges with Fee-for-Service Advocates:

Legacy strongly believes that reforms should focus on protecting the families of veterans from exploitative fee-for-service advocates who charge unreasonable fees or take a percentage of their clients' compensation. The veteran and family member must be protected at all costs against advocates who will charge a percentage of the payout. We are concerned that accrediting these providers under the new Institute of Advocates may inadvertently legitimize practices that take advantage of vulnerable families. While fee-for-service providers cannot be phased out, Legacy recommends that, through the proposed Institute or otherwise, DVA commit to supporting ESOs in providing the highest standard of free advocacy that veterans and families no longer feel the need to seek paid assistance. There should be a clear distinction between these fee-for-service organisations, and the ESO community, which has already provided free advocacy through paid professional advocates for many years, especially noting that the new legislation enacting in 2026 will have provision for lump sum payments for all applications.

3. The Institute's Board & Membership to the Institute

Legacy supports the selection of board members based on their expertise, with an emphasis on diverse representation. This must also comprise the appointment of an older widow or family representative (over the age of 60) to represent the interests of the older person cohort and bereaved families. Additionally, the board should include members with a background in adult education, rather than relying solely on the volunteers who have historically driven these programs. It would also be advantageous to have representation from the Commonwealth Superannuation Corporation on the board. Legacy acknowledges that the ESORT Advocacy Working Group has proposed a Sub-Committee structure, and that these positions may be held within that structure.

Membership should be based on organisational requirements and numbers of volunteers and staff that will be requiring support from the institute and not on individual advocate membership. The more trainee and accredited advocates organisations have should reflect on the membership costs. Indemnity insurance should be an "opt in or opt out" provision as many organisations have their own insurance aligned to their own "Code of Conduct". The Building Excellence in Support and Training (BEST) Grants – and their interaction with, or allocation towards, any membership requirements or fees associated with the Institute – has not been addressed in the consultation paper. Currently BEST funding is available to ESO's and is calculated based on statistics and numbers of accredited advocates. The Royal

Commission into Defence and Veteran Suicide, Recommendation 99 that the BEST funding must be increased and provided over a 3-year period to allow for employment stability. This will also support succession planning for advocacy. Legacy supports this recommendation.

4. Advocate Accountability and Malpractice Reporting:

While the proposed association's framework includes oversight and accreditation, it is essential to establish clear guidelines for managing complaints, particularly those involving rejected claims where the claimant blames the advocate. It is important to recognize that not all applicants will be satisfied with their DVA decisions, and some may lodge complaints simply because the outcome was unfavourable. Currently, there is a lack of information on how the complaints process will be administered or what level of expertise will oversee it. Legacy supports the development of a robust system for reporting malpractice, but there must be safeguards in place to ensure fair and transparent handling of complaints, protecting both the advocate and the ESO involved. The consultation paper suggests establishing a nationally consistent complaints handling process, including referring complaints to other professional bodies when members are subject to another equivalent discipline process (e.g., law societies). This raises concerns about whether the institute itself would oversee complaints against members already governed by other professional bodies, which requires further clarification.

5. Potential Redundancy and Bureaucratic Overload:

The existing Accredited Advocate Register, managed by the ESO community, already plays a vital role in maintaining the quality of advocacy services. The introduction of the Institute of Veterans' Advocates raises concerns about potential overlaps in responsibilities, which could lead to an unnecessary additional layer of bureaucracy. It is important to clarify whether the new association will replace the current register or function alongside it. Additionally, there needs to be transparency regarding the compensation of the proposed board members of the Institute—whether they will be paid positions, funded by whom, or if they should be volunteer or pro bono roles based on expertise. Legacy strongly believes that any reforms should aim to streamline processes, not complicate them.

6. The Advocacy Training and Development Program, and Training Reforms:

The ADTP was designed to provide advocates with the knowledge and skills necessary to effectively represent their clients. For Legacy, this training has never been fit for our purpose as it has been designed, written and delivered with a very veteran centric view, thereby not addressing many of the issues that the families of veterans face, such as grief and loss, and family and domestic violence. The training materials and advocacy handbooks are directed towards assisting the Veteran and not the family members.

Recent examples highlight the need for broader training content. During a recent six-day combined ATDP and Level 1 Wellbeing and Compensation training course in Perth, only approximately 30 minutes was dedicated to discussing war widows' and dependants' claims and issues. This starkly demonstrates the focus on veterans alone, leaving advocates underprepared to assist families of veterans in need.

The Training and Information Program (TIP) was the original training model for ESO volunteers, and despite being replaced by the ATDP, some ESOs continue to provide a version of TIP due to its effectiveness. The ATDP, endorsed by ESORT and overseen by the DVA, is managed by a registered training organisation (RTO) and offers participants a course accredited by the Australian Skills Quality Authority (ASQA). Since the introduction of ATDP, there has been a noticeable shift from the retired volunteer model to one where advocates are employed by ESOs to deliver professional services. This change aligns with Legacy's evolving cohort of beneficiaries, which now includes younger families with more complex needs in addition to older widows. To meet these demands, Legacy employs professional staff across many of their clubs to ensure appropriate support and services are provided.

We suggest that reforms focus on simplifying the ADTP training process, including more practical, scenario-based training rather than prolonged mentorship periods. This approach would accelerate the qualification process while maintaining high standards. Additionally, training should include specialized streams (e.g., veteran compensation claims, family and widow claims) to better prepare advocates for the diverse needs of families of veterans, as highlighted in the Royal Commission's final report.

7. Supporting Diverse Advocacy Skills through Targeted Training and Continuing Professional Development:

We encourage the new Institute to recognise the diverse nature of Military Advocacy. The consultation paper acknowledges the “unique nature of military service” and “trauma informed service delivery”, and we would encourage the ATDP to move beyond tokenistic statements and prioritise the provision of more streamlined training to allow advocates to focus on key elements and requirements of service provision for their ESO. For example, relevant courses in superannuation benefits, and DVA Death entitlements. Additionally, many advocates possess expertise in specialized areas, such as chemical exposures during military service, and this specialization should be actively supported and recognized to enhance the quality and relevance of advocacy services. Advocates often find their own niche and will assist the clientele they feel most comfortable with. Legacy often refers Veterans requiring claims assistance to an advocate they know and trust, and likewise, veteran compensation advocates refer bereaved partners and families to Legacy advocates.

Legacy has, and will, continue to support the ATDP, including the necessary requirement of Continuous Professional Development (CPD). CPD is a necessary platform to ensure that Legacy's advocates remain up to date with their knowledge and skills. However, we believe there should be a more consistent and equitable system for awarding CPD points, as current inconsistencies (e.g. a two-day training being allocated 1 point, while a case study receives 5 points) undermine the effectiveness of the program. Standardizing the point allocation across different types of learning activities would ensure that advocates are properly recognized for their efforts.

Additionally, we acknowledge that not all ESOs consistently implement these CPD standards and recognize the challenge this presents for DVA. We support the inclusion of a wider variety of content in CPD programs, which has been addressed in the consultation paper, to better equip advocates with the diverse skills needed for effective service delivery.

8. Importance of Face-to-Face Training and Community Building:

We anticipate a significant decrease in the number of accredited advocates continuing after the enactment of the MRCA on 1 July 2026, largely due to the age of many advocates, who are over 75 and may not wish to continue with the obligations of CPD.

Incorporating face-to-face training allows for the development or expansion of communities of practice, facilitating greater mentorship connections and supporting advocates' ongoing professional development. Legacy's advocacy is a 'for life' model, providing support and care throughout a beneficiary's entire life. The current model of training does not align with Legacy's advocacy approach, as it lacks in depth coverage of subjects such as grief and loss and family and domestic violence and how to have difficult conversations.

Face-to-face training has been a cornerstone of Legacy's approach, as demonstrated by the success of our in-house courses. In-person training not only enhances learning but also fosters a sense of community among advocates, which is especially valuable for volunteers who may feel isolated in their roles. Legacy recommends that any training under the new Institute includes face-to-face components, designed to build networks, support systems and communities of practice among advocates. This also enables ESO's to work together rather than a silo approach to providing care for our families of veterans.

Conclusion

In conclusion, Legacy appreciates the Department of Veterans' Affairs' efforts to enhance veteran advocacy standards through the proposed Institute of Veterans' Advocates, a

concept long recommended by various reports and consultations. However, we urge that these efforts align with the broader goals of protecting and supporting the families of veterans, avoiding unnecessary bureaucracy, and maintaining a focus on community-driven, holistic, and ethical advocacy.

Legacy appreciates your attention to these matters. We look forward to working collaboratively to ensure that the advocacy services provided to families of veterans meet the highest standards of professionalism and care.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark Lax', with a stylized flourish at the end.

Mark Lax

Chair

Legacy Australia Advocacy Committee