



**Submissions to the *'Institute of
Veterans' Advocates
Consultation'***

By Brian Briggs

Submitted by
Slater and Gordon Lawyers

2 October 2024

Commercial-in-Confidence

Dear Committee Members,

Who We Are

Slater and Gordon provides legal assistance and representation to injured workers across all jurisdictions in relation to the eleven workers' compensation schemes operating in Australia. The firm has also handled some of the most complex and groundbreaking common law cases in Australia that have resulted in significant advances in workplace and public health and safety.

Slater and Gordon has extensive experience in Veterans' entitlements. We have advocated for tens of thousands of veterans and have valuable insight into the process and opportunities for improvement. Slater and Gordon regularly provides advice to government and key stakeholders on ways in which the defence force compensation system can better support veterans and their families, having seen firsthand the impact of work-related injuries.

We can assist the Department of Veterans' Affairs (DVA) in relation to any questions it may have about the impact of the proposed introduction of an Institute of Veterans' Advocates and what enhancements could be made to improve the experience of veterans and their families.

Background

The Ex-Service Organisation Roundtable (ESORT) established a working group to consider how advocacy services could be strengthened to benefit veterans and their families ("the Working Group").

The Working Group proposed the creation of an Institute of Veterans' Advocates ("the Institute") as a national professional association for veterans' advocates. The Institute was designed to provide:

1. Leadership and support to veterans' advocates;
2. Set competency and training standards for the sector; and
3. Provide members with access to the training and tools they need to deliver high quality advocacy services.

On 23 August 2024, the Department of Veterans Affairs published a consultation paper detailing the Working Group's proposal and sought feedback.

Executive Summary

Slater and Gordon welcomes the creation of a body which can provide leadership and support to veterans' advocates, set competency and training standards for the sector and accredit and register advocates.

However, we believe changes should be made to the proposed Institute to ensure it works in the best interests of veterans and their families.

The proposed governance of the Institute of Veterans' Advocates does not appropriately represent the needs of veterans and their families and should be reconsidered.

Advocates who are not lawyers are currently unregulated. This has led to the provision of suboptimal support and correspondingly, the charging of unreasonable fees. The new body should provide a mandatory framework for advocates seeking to represent veterans and their families.

The legal profession should be excluded from regulation as they are already extensively and sufficiently regulated.

Governance

The Ex-Service Organisation Roundtable (ESORT) is considered by many coalface advocates to be out of touch with the veteran community and focused on preserving the status quo rather than exploring ways to improve the experience of veterans and their families. Evidence of this includes:

- The ESORT opposed the call for a Royal Commission into Veteran Suicide. At its quarterly meeting on 20 June 2018, the fourteen ESO members of the ESORT advocated against a Royal Commission, rejecting the unique nature of veterans' experience¹.
- ESORT failed to consult with national RSL Subbranches regarding their stance on a Royal Commission.
- Following their media release, the ESORT received a petition with over 450,000 signatures from veterans and members of the public calling for the Royal Commission.
- First Assistant Secretary Liz Cosson, created a separate consultation group to ensure a more comprehensive understanding was reached on the issue of a Royal Commission. The ESORT was not invited to join the consultation group.
- The ESORT angered the veteran community when, following no consultation, it offered support for the *Veterans' Affairs Legislation Amendment (Digital Readiness and Other Measures) Bill 2016*, a Bill which permitted veterans' personal records to be shared with other government departments and the media. Pending fierce opposition from the veteran community, the Bill was abandoned.
- The Royal Commission recommended the ESORT should be more collaborative with all defence providers including advocates.
- The ESORT has sought to limit the opportunity of a veteran to choose to be legally represented.

¹ www.adso.org.au/media-release-esort-resolution-no-to-royal-commission/

We support the Institute being a stand-alone entity subject to its composition being compromised of 50% independent directors.

The staff supporting the Institute are to be provided by the DVA. We believe further consideration should be given to how to ensure the Institute is truly an independent body rather than just another arm of DVA. Without this clear distinction, it is likely the Institute will not instil confidence in the veteran community.

We do not support the Institute having unfettered control of the recognition process given that the ESORT has already made it clear that it opposes lawyers representing veterans and their families.

Regulatory Framework

We support the creation of the establishment of an Institute owing to the number of advocates who do not have the appropriate knowledge and experience to navigate the processes with which to improve the lives of veterans and their families.

Corporate membership is proposed to be open to advocates whose services are provided on a fee-for-service basis, with membership being founded on the completion of “relevant Advocate Training and Development Program (ATDP) courses’. We recommend membership be made mandatory for advocates who provide a fee for service. To support this, we recommend there be a process implemented to identify advocates who do not have the necessary training and experience to properly represent veterans and their families but who nevertheless charge a fee for service.

Lawyers are already regulated², and therefore should be excluded from further regulation. To do otherwise would be unnecessary and create an unreasonable additional burden.

Ethical and Service Standards

We welcome the recommendation of a Code of Ethics being established. This is standard for any professional body.

We welcome the current recommendations that paid advocates be required to adhere to additional standards, such as ensuring their relevant fee-schedules are clear and easily accessible to veterans and families.

² *Legal Profession Act 2007 (Qld), Legal Profession Act 2006 (ACT), Legal Profession Act 2006 (NT), Legal Profession Uniform Law (VIC, NSW, WA)*

Consultation

We are available for further consultation.

Yours Faithfully

A solid black rectangular box used to redact a signature.

Brian Briggs

Senior Legal Counsel, Military Compensation

SLATER AND GORDON LAWYERS