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A new Institute of Veterans' Advocates

Discussion Paper

Submission by Allan Joyce

Introduction

I make this private submission as an Australian Army veteran who served in Vietnam and Cambodia. I am also a practising legal practitioner registered in the ACT and on the Roll of the High Court of Australia.

I have assisted advocates in submitting claims to DVA, the VRB and the AAT and produce and distribute a spreadsheet in MS Word on cases involving veterans that come before the courts. This spreadsheet now exceeds 50 pages and is designed to help advocates understand the reasons why a claim has been either accepted or rejected.

I applaud the initiative designed to improve the quality of advocacy to veterans and their families, but having suffered at the hands of the ATDP system am concerned that the proposal will replace one inflexible bureaucracy with another. This will only serve the interests of those in the current, albeit dormant, ATDP system.

Recognition of Prior Learning (RPL)

Although RPL is featured in the current scheme and in the discussion paper it is restricted to '...advocates who are currently registered with ATDP.'

The Australian Skills Quality Authority (ASQA) the Australian government regulator for vocational education defines RPL as being:

‘An assessment process that assesses the competency/s of an individual that may have been acquired through formal, non-formal and informal learning to determine the extent to which that individual meets the requirements specified in the training package or VET accredited courses.’

As a solicitor and barrister who also qualified at the Victoria Police Detective Training School as an investigator, I had ten years' experience investigating fraud, I managed my own business undertaking security vetting up to and including Top Secret and conducted security assessments and business continuity planning including such Australian icons as the Sydney Opera House, the National Gallery of Australia and the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), I was denied RPL for Level 1 Advocacy Training on the grounds that 'You have not conducted a VEA interview.'

This attitude flies in the face of the intentions of RPL which seeks to engage people with skills complementary to those specifically required of the job in question.

If the proposed Institute of Veterans' Advocates ('the IVA') follows the same RPL parochial philosophy in the future as in the past, then rules will be based on personalities rather than ability. This will run counter to the Australian Government's commitment to ensure high quality support for Australian veterans and their families.

In the Productivity Commission Report on supporting veterans¹ the report identified several possible causes of declining numbers of volunteer advocates for veterans and their families. These included the age of the current cohort of advocates and ESO succession planning which have not been as fruitful as in the past.

The Naval Association of Australia was close to home when it stated to the Commission, '...the new accreditation and training requirements had resulted in something like a 90 per cent reduction in advocates in that organisation'²

I am aware of several advocates who find the ATDP system bureaucratic. Whilst this may seem a good reason to establish the IVA, my argument is that if it is based on the parochial and inflexible attitudes of the past then the veteran and their families will suffer. We will see an organisation resistant to change with individual fiefdoms continuing to develop.

Recommendation

There needs to be a more flexible definition and practice of what constitutes RPL and is in keeping with the better practice as defined by ASQA.

¹ Australian Government, Productivity Commission Inquiry Report No 93, 27 June 2019, Vol 2, *A Better Way to Support Veterans*, p 540.

² *Ibid*, 541.

Appeal Procedures

Under the proposed system, to appeal a decision of the IVA, an appellant must lodge a complaint to the people or body who made the original decision. Little, if any, thought appears to have been given to good corporate governance or natural justice.

Recommendation

Any appeal against a decision of the IVA should be unbiased and separate from the Institute.

Audits

It appears from the limited information available that funding will be provided by the Commonwealth Government. However, there is no provision for auditing decision making, spending of funds, of assessing the effectiveness of the training or of the corporate governance of the Institute.

If public money is to be used, then the IVA needs to have strong corporate governance practices and procedures.

Recommendation

Provision be made for external auditing of finances, decision making and corporate goals.

Membership

The proposed membership is as follows:

- Associate (i.e. trainees, support officers)
- Member (i.e. ATDP level 2-3 Advocates or those with equivalent experience or professional qualifications)
- Fellow (i.e. ATDP level 4 advocates or those with equivalent experience or professional qualifications) and
- Corporate.

The discussion paper then goes on to state that ‘members’ are to abide by certain rules. This does not appear to apply to Associates, Fellow or Corporate membership. This needs to be spelled out. Furthermore, it defines a ‘Member’ as an ‘ATDP Level 2-3 or those with equivalent experience or professional qualifications’. The term ‘equivalent experience or professional qualifications’ reverts to my earlier points about RPL. What and who defines ‘equivalent

experience' or 'professional qualifications'? Based on my experience with ATDP, a lawyer would be barred from becoming a member unless they had undertaken a VEA interview.

Recommendation

Terms used in the discussion paper should be more specific and defined In the current form enlarged interpretation lacks in any form of uniformity.

Conclusion

In my opinion, there are several weaknesses in the draft proposal. Whilst I agree there is a need to standardise advocacy services for the benefits of veterans and their families. Any proposed change needs to be more flexible and less bureaucratic than has been practised in the past.