

**23 October 2024**

Mr Luke Brown  
First Assistant Secretary  
Policy Division  
Department of Veterans' Affairs  
GPO Box 9998  
BRISBANE QLD 4001

By email: [advocacy.policy@dva.gov.au](mailto:advocacy.policy@dva.gov.au)

Dear Mr Brown

**Institute of Veterans' Advocates—Consultation Paper**

1. The Law Council of Australia welcomes the opportunity to respond to the **Department of Veterans' Affairs** in response to its Consultation Paper on the creation of an **Institute of Veterans' Advocates**, as proposed by the Ex-Service Organisations Round Table.
2. Regrettably, in the time available, we received limited engagement from our membership in response to this consultation. Nonetheless, we make the following brief comments for the Department's consideration, primarily regarding issues arising from the dual regulation of the Australian legal profession.
3. We acknowledge that the purpose of the Institute is to 'enhance the quality of services provided by, and availability of, trained veterans' advocates around Australia',<sup>1</sup> and note that membership of the Institute would not be limited to legal professionals.
4. While not explicitly stated in the Consultation Paper, it appears that it is intended that legal practitioners will not be required to become members of the Institute to provide advocacy services to veterans. We strongly support this approach and submit that membership of the Institute should be voluntary for legal professionals.
5. Moreover, the Consultation Paper states:

*The Institute would establish a Code of Ethics for Veterans' Advocates (Code of Ethics), as well as service standards, to which members would be expected to adhere.*

...

*The Institute would monitor members' compliance with these standards and requirements and would also administer a complaints and feedback process for issues raised about the performance or conduct of an Institute member where they are not subject to another equivalent professional discipline process.*

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<sup>1</sup> Department of Veterans' Affairs, *A new Institute of Veterans' Advocates* (Consultation Paper, August 2024) 1.

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*Members who are already subject to professional oversight and ethical standards through their paid employment (e.g. lawyers) would be exempt from similar standards set by the Institute.<sup>2</sup>*


We strongly support this proposed approach, and we appreciate the recognition by the Department of the need to avoid the dual regulation, especially for legal practitioners.

6. The Australian legal profession is already the most comprehensively regulated profession in Australia. Legal profession regulation within, and across, each State and Territory, is based on core standards and regulatory approaches that are either uniform, or at least sufficiently harmonised, so as to not involve significant jurisdictional variations in achieving national policy outcomes that impact the legal profession and the provision of legal services.
7. For the Department's reference, I have **attached** a copy of *Lawyer Regulation in Australia*, a document recently developed by the Law Council that sets out, in detail, how legal professionals are regulated in Australia.
8. Dual regulation of the same service (and hence, the provider of that service) under both a Commonwealth, and a State or Territory regulatory scheme, is inefficient and undesirable for several reasons, including:
  - an increase in the overall regulatory burden on legal practitioners and law practices, inevitably putting upward pressure on the cost of legal services;
  - inconsistent and conflicting regulatory standards and obligations for legal practitioners over the way in which the same activity/service is to be carried out;
  - uncertainty and confusion for users of legal services about consumer protections, rights, remedies, and avenues for raising and resolving complaints;
  - the need for mechanisms to authorise and facilitate cooperation and coordination between Commonwealth, State and Territory regulatory authorities; and
  - regulation of particular kinds of legal services by agencies other than legal profession regulatory agencies (that are subject to prohibitions from disclosure of information obtained in the course of administering legal profession laws and specific exemptions) inevitably raises complex issues about the preservation of the confidentiality of client information.
9. Given the above matters, we reiterate that legal practitioners who voluntarily become members of the proposed Institute should only be regulated in respect of that service under State and Territory legal profession laws, and that they should be exempt from any similar standards set by the Institute.

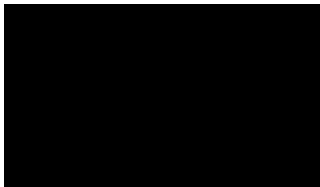
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<sup>2</sup> Ibid 3.

## **Contact**

10. Thank you again for the opportunity to contribute. We would be pleased to engage further with the Department as its consideration of this reform progresses.
11. If the Department requires any clarification or would like to discuss further, please contact in the first instance Ms Natalie Cooper, Senior Policy Lawyer, at 

Yours sincerely



**Greg McIntyre SC**  
**President**