



## **ADSO** ALLIANCE OF DEFENCE SERVICE ORGANISATIONS

**PO Box 4166  
KINGSTON ACT 2604**

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**The Committee Secretary  
Senate Foreign Affairs, Defence and Trade Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2601**

### **SUBMISSION TO SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE INQUIRY INTO SUICIDE BY VETERANS AND EX-SERVICE PERSONNEL**

#### **INTRODUCTION**

The group of ex-service Associations that make up the Alliance of Defence Service Organisations (ADSO)<sup>1</sup> welcomes the opportunity to make a submission to the Senate Committee's Inquiry into **'Suicide By Veterans and Ex-Service Personnel'**. The Alliance numbers 17 National ex-service Associations that have a combined membership base of over 90,000 members.

#### **Definition of Veteran**

Noted is the Inquiry's focus on *'veterans'* and *'ex-service personnel'*. Appropriately so but ADSO invites Inquiry members to acknowledge that the term *'veteran'* is widely accepted to mean **all** service personnel, whether they have rendered warlike/operational service, or non-warlike/peacetime/eligible (non-operational) service. That definition should also include both full-time and Reserve service.

#### **Background - The Issues**

ADSO deems the Senate Committee's Inquiry into **'Suicide by Veterans and Ex-Service Personnel'** as critically important for good reason. There has been almost universal opinion, particularly in the veterans' community, that a wide range of organisational, cultural and systemic failings over a considerable period of time has burdened the Department of Veterans' Affairs (DVA). Many of these failings have now been identified by official reviews of its performance over time.

Even the Public Service Commission review of 2013 into the Capabilities of DVA found that its service delivery model was *'inefficient, confuses lines of accountability, is unsustainable, and is impacted by the physical location of staff across offices in capital cities and regional Australia.'*

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<sup>1</sup> ADSO comprises The Defence Force Welfare Association (DFWA), Naval Association of Australia (NAA), RAAF Association (RAAFA), Royal Australian Regiment Corporation (RAR), Australian Special Air Service Association (ASASA), Vietnam Veterans Association of Australia (VVAA), the Australian Federation of Totally and Permanently Incapacitated Ex-Service Men and Women, the Fleet Air Arm Association of Australia, Partners of Veterans Association of Australia, Royal Australian Armoured Corps Corporation (RAACC), the National Malaya & Borneo Veterans Association Australia (NMBVAA), Defence Reserves Association (DRA), Australian Gulf War Veterans Association, Australian Commando Association, the War Widows Guild of Australia, Military Police Association Australia (MPAA), and the Australian Army Apprentices Association

When questioned by the Commission<sup>2</sup>, DVA's own staff reported that their operating system was '*disjointed, inconsistent and slow*'. No wonder that today anecdotal evidence appears to put the average case load of working delegates at 300+ files at any one time. Reported veterans' grievances suggest that time to process claims are well in excess of agreed acceptable targets.

Almost unanimously, the veteran community as a whole perceives DVA to have lost sight of the beneficial intent of veterans' legislation. And seemingly lost sight also of the deleterious affect all this is having on the mental state of veterans, some of whom are known to have contemplated the extreme involving their own life. Reports abound of frustrations and anger as a results of lost files, interminable medical reviews, rejected claims that seem indisputable, inconsistent decisions between one claim and a similar one, inadequate rehabilitation support, unexpected recovery of Incapacity Payments to name just a few common grievances reported to ex-service Advocates.

A typical comment in the Commission's own findings sums up the cause of despair:

*.....the Department of Veterans' Affairs is monolithic.....it is impersonal, bureaucratic, somewhat labyrinthine and overall a bit mysterious in its decision-making.*

No wonder then the general consensus among veterans that the outcome has been poor service delivery on a consistent basis. And little wonder that the Public Service Commission findings led to a search for a remedy. DVA's strategic plan '*Towards 2020*' and the '*Lighthouse Project*' are clearly aimed at overcoming many of the Department's performance shortfalls of the past.

For this reason, this ADSO Submission does not intend to catalogue past failure of DVA, nor its inherent weaknesses. Rather, this Submission is cast as a vital opportunity to air the views of a sizable section of the ex-service community that numbers over 90,000 constituents, and an opportunity also to balance deserved criticism of DVA's past service delivery performance with comments on and support for its initiatives to improve outright its performance going forward. These initiatives should be applauded and encouraged.

What this Submission will do is encourage the Inquiry to be discerning in its approach, analysing as necessary the issues that underlie stated grievances, and identifying the patterns within them, before applying those patterns as guidance for remedial action.

And further encourage the Inquiry to be mindful that veterans and their families are looking for greater transparency; they should know about the beneficial intent of veterans' legislation, the constraints on the Commissions' administration of the legislation, and the meaning of the legislated 'no-onus-of-proof' provision – this is crucial. Without knowledge, grievance is inevitable.

## **The Inquiry's Thrust**

The Inquiry's Terms of Reference makes it self-evident that the intended thrust of the Senate Committee's inquiry is veteran suicide and the perceived causative reasons thereof. Without demur, the suicide of any veteran is a tragedy.<sup>3</sup> If mal-administration of legislation is the causation, the outcome is unforgivable. By merely joining the ADF, a suicide victim has already given their all in the service of their country. DVA's responsibility for contributing to veteran suicidality must, however, be tempered by a reality that seems to suggest that only 20% of people transitioning out of the ADF become automatic DVA clients, and around another 15% eventually become DVA clients after transition has occurred. In other words, DVA has no information on about 65% of veterans.

<sup>2</sup> Australian Public Service Commission, *Capability Review Department of Veterans' Affairs*, Review Report: November 2013, online at [http://www.apsc.gov.au/data/assets/pdf\\_file/0020/64622/DVA-Capability-Review.pdf](http://www.apsc.gov.au/data/assets/pdf_file/0020/64622/DVA-Capability-Review.pdf), p.35. [accessed 19/9/16].

<sup>3</sup> According to Legge K. ('Beyond the Blues', *The Weekend Australian Magazine*, September 17-18, 2016, p.16), in 2014, '2864 Australians committed suicide, double the national road toll for that year.' This total, which potentially includes veteran suicides, is beyond comprehension

At the heart of the veteran suicide issue is a widely held perception that veterans are all too often forced to navigate a Repatriation and Military Compensation process that is uncaring in the extreme.

As a consequence, too many veterans are expressing feelings ranging from frustration to desperation; their anger invariably flows through social media channels. Purportedly, for some veterans the outcome is suicide. A fundamental finding of the Inquiry should thus be evidence or otherwise of the existence of, or causal links between mal-administration and suicide.

Traditional ESOs were established a century ago so that ‘mates’ could help their mates and their mates’ families. Tragically, a series of recent reports identified substantive failings in the services ESOs are providing to veterans.<sup>4</sup> Also tragically, the sequence of Acts intended to benefit those killed or incapacitated by, during, or because of their service may not always have been administered beneficially. This reality is illustrated by a recent exchange between the examining Counsel and DVA representative during the Royal Commission into Institutional Responses to Child Sexual Abuse.<sup>5</sup>

It is common ground that the beneficial intent of veterans’ legislation no longer drives its administration. Reinforced by time and emotive responses, an adversarial relationship has developed between ESOs and DVA. Some veterans regard the system as callous and unfeeling.<sup>6</sup> Now exacerbated by younger veterans’ unawareness of legislative intent, angered by the time taken to resolve the ‘stable’ and ‘permanent’ provisions in SRCA and MRCA, expecting instant gratification, and airing grievances on social media, the attitudes of too many in both parties is conflictual. Until all stakeholders forego a ‘silo’ mentality and accept the vital importance of a partnership approach, inimical attitudes will continue to fester around what must be a common goal of improved services and support for veterans and their families.

Crucially, ADSO proposes that the Inquiry compare the patterns with the Department of Veterans’ Affairs strategic plan, *DVA Towards 2020*, and in particular the Plan’s Veteran-Centric Reforms. It must be herein acknowledged that implementation of these reforms is already underway. The Minister for Veterans’ Affairs, the Hon Dan Tehan MP’s announcements on both 15 September and 22 September 2016<sup>7</sup> are relevant in this regard.

ADSO also notes the increasingly close collaboration that has grown up between DVA and the Department of Defence, which now precedes any transition out of the Defence Force, involves hand-over activity at the point of separation, and continues after separation. Accepting that there is still much refinement before this collaboration is fully effective, ADSO strongly supports the progress made and the vector in which collaboration is moving.

Furthermore, it must also be acknowledged and the Inquiry should note that DVA has almost completed a comprehensive ‘discovery’ process, and has conducted workshops with a very wide range of stakeholders so as to prepare a thoroughly informed business case. The Department will use the business case to support a Request for Appropriations in FY2017-18 and beyond. That undoubtedly will enable a fundamental Reform Program to be implemented in due course.

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<sup>4</sup> Relevant are:  
*Review of DVA-funded ESO Welfare and Advocacy Services*, December 2010.  
 Report of ESORT Working Party on TIP Accreditation, 29 July 2013.  
 Review of Veterans’ Advocacy Training – Summary Paper for ESO Round Table, 27 August 2015.  
 Advocacy Training and Development Blueprint, 17 September 2015.

<sup>5</sup> Transcript: N R Bayles (Mr Stewart), 24/06/2016 (193), page 19672, line 41, *et seq* to page 19681, line 42. The import of the evidence is the Chair’s advice in the context of the Department’s ‘policy manuals’ that ‘...a system which is operating on the balance of probabilities but excludes any possibility of succeeding in a claim unless there is collaborative evidence, is not operating in accordance with the law.’

<sup>6</sup> The poverty of such perceptions is, however, challenged by the DVA statistic that 88% of primary claims succeed.

<sup>7</sup> See:  
<http://www.dva.gov.au/about-dva/media-centre/streamlined-processing-reduces-red-tape-veterans>  
<http://www.dva.gov.au/about-dva/media-centre/appeals-process-simplified-veterans>

The understanding is that the business case will include Proof of Capacity demonstration software. ADSO welcomed the opportunity to input to its development, thus enhancing its functionality and while at the same time simplifying the on-line claims process for ‘wear and tear-type’ injuries. This will allow straight forward ‘tick the box’ approval outcomes.

The simplified process will be automated in a way that relates the claimed condition and the clinical diagnosis to the relevant Statement of Principles. Liability decisions within 24 hours are in prospect.

The Reform Program will include robust culture change and training activities for the Commissions’ Delegates and Departmental personnel.<sup>8</sup> DVA has emphasised that the objective of these activities is to ensure that the full ‘*beneficial intent of the legislation*’ is realised. ADSO strongly endorses the recognition by DVA of past failings and the efforts in train to drive the Department’s Reform Program.

ADSO therefore welcomes this Senate Inquiry as an opportunity for the findings to justify DVA’s Request for Appropriations. Without those Appropriations, the Department’s Reform Program would risk faltering.

ADSO therefore strongly recommends that in its Findings and Recommendations the Inquiry stress the critical importance of passage of the relevant Appropriation Bills for remediation of the issues that have spurred this Inquiry.

## SCOPE OF SUBMISSION

Without diminishing ADSO’s support of the Department’s own initiatives, to place them on record, our submission includes views on some of the issues that likely spurred the Inquiry. This Submission addresses issues arising from Terms of Reference items (a) to (e) and the following additional discussion topics encouraged by item (f), ‘Other Related Matters’:

1. Proposed Australian Military Covenant;
2. Post–transition health care;
3. Reserve service;
4. MRCA and MRCC rehabilitation policy;
5. Mefloquine/Tafenoquine malarial prophylaxis;
6. Veterans’ families; and
7. Advocacy Training and Development.

## TERMS OF REFERENCE DISCUSSION

### Terms of Reference (a)

#### - Reasons why Australian veterans are committing suicide at such high rates

##### 1.1 Introduction

Media reports suggest an epidemic of suicide among current and former veterans, citing 41 deaths by suicide so far this year. Such reports are causing the families of suicide victims to blame the Commissions’ ‘*convoluted and time-consuming*’ claim processes. ADSO submits that this Inquiry must establish whether the evidence justifies such perceptions. In so doing, the Inquiry must also

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<sup>8</sup> ADSO emphasises the difference between the Department and the Repatriation and the Military Rehabilitation and Compensation Commissions. DVA provides Delegates for the Commissions and it is the Commissions that interpret legislation in policy. In other words, Commission Delegates make decisions in accordance with Commission policy. It is therefore a fundamental error to castigate DVA about claims processing.

consider the effectiveness of both the ADF's efforts to properly screen recruits and its debriefing programs for members returning from operational deployment.

## 1.2 Context for Veteran Suicides

Citing ABS data,<sup>9</sup> a Hunter Institute of Mental Health report<sup>10</sup> show the male suicide rate to be higher than the female. For example, in 2014, NSW recorded 15 male and 5 female suicides per 100,000 head of population.

The March 2016 Senate Standing Committee Inquiry into the '*Mental health of ADF serving personnel*',<sup>11</sup> cites the following general population data:

*In 2013, deaths due to suicide occurred at a rate of 10.9 per 100,000 people. The median age at death for suicide was 44.5 years for males, 44.4 years for females, and 44.5 years overall. In comparison, the median age for deaths from all causes in 2013 was 78.4 years for males and 84.6 years for females. Of deaths due to suicide, 75 per cent are male, making it the tenth leading cause of death for males in Australia (2.42 at 23).*

## 1.3 Popular Research into Veteran Suicide

Following a six-month investigation into veteran suicides, a *Herald Sun* report paints a bleak picture of post-service health and support.<sup>12</sup>

The report argued that after discharge and without the camaraderie of service life, too many veterans find themselves in an alien, uncaring environment. Their sense of isolation is exacerbated by what they perceive to be a callous, process-driven (rather than outcomes-focused) bureaucracy.

Over time, veterans' experiences – especially those with psychological trauma – fashion a widely held perception of the claims process as a procedural minefield. Frustration and anger all too often follow, as do domestic and other violence, estrangement from family and friends, homelessness, drug or alcohol abuse, imprisonment, and regrettably sometimes suicide.

## 1.4 Official Veteran Suicide Research

### 1.4.1 Dunt Independent Study<sup>13</sup>

The findings of Professor Dunt's 2009 Study correlate well with the discussion of veteran suicide in the 2016 *Herald Sun* article. These included:

- *Being male, white, high school graduate and an older or younger (not middle age) veteran*
- *Having poor psychosocial support or social network, including being unmarried, separated, divorced, homeless*
- *Experiencing negative life events before military service*
- *Having a psychiatric disorder, including depression and substance abuse*
- *Living in a rural area*
- *Being unemployed*
- *Psychological treatment during service*
- *Involuntary repatriation, conflict with military service system*
- *Poor cognitive functioning or low intelligence*

<sup>9</sup> ABS, Catalogue 3303.0 Causes of Death, Australia, 2014, released Tuesday 8 March 2016.

<sup>10</sup> [http://www.mindframe-media.info/\\_data/assets/pdf\\_file/0018/12834/Suicide-figures-ABS-2016\\_final3.pdf](http://www.mindframe-media.info/_data/assets/pdf_file/0018/12834/Suicide-figures-ABS-2016_final3.pdf) [accessed 19 September 2016]

<sup>11</sup> Foreign Affairs, Defence and Trade References Committee, *Mental health of Australian Defence Force members and veterans*, March 2016, Commonwealth of Australia 2016, ISBN 978-1-76010-382-8

<sup>12</sup> Lamperd, R., 13 August 2016, 9.00am, 'Families speak about military loved ones lost and how we failed them', *Sun Herald*. Online at <http://www.heraldsun.com.au/news/national/families-speak-about-military-loved-ones-lost-and-how-we-failed-them/news-story/768d68f6681accf3bd8990c071d01a3f> [accessed 19/9/16]

<sup>13</sup> Dunt, D., 2009, '*Independent Study Into Suicide In The Ex-Service Community: Risk Factors for Suicide Among Veterans*', pp. 40-42. Online at: <http://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/healthstudies/Dunt%20Suicide%20Study%20Jan%202009.pdf>. [accessed 19/9/16]

Dunt identified the following counter-suicide factors:

- *Service connections*
- *Regular compensation payments, good income*
- *Anti-depressant use*
- *Psychosocial support*

#### 1.4.2 March 2016 Senate Standing Committee Inquiry.

The preceding Inquiry into mental health cited the following Department of Defence data:

*... since 2000, 108 ADF members are suspected or have been confirmed to have died as a result of suicide.*

DVA's submission to the earlier Inquiry advised that:

*[it had received] 85 claims relating to death by suicide over the last ten years (to 31 December 2014) [of which] 57 were accepted as service related; and of the 57 claims, 22 veterans were aged 55 years or under at death.(2.45 at 24).*

The earlier Standing Committee's report concluded that:

*... suicidality (thinking of suicide and making a suicide plan) in the ADF was more than double that in the general community; however the number of suicide attempts was not significantly greater than in the general community and the number of reported deaths by suicide in the ADF were lower than in the general population when matched for age and sex.*

*...there is a gradation of severity of Suicidality in the ADF, ranging from those with suicidal ideation (3.9 per cent) through to those making a plan (1.1 per cent) and those actually attempting suicide (0.4 per cent) (2.43 at 23).*

*...although ADF members are more symptomatic and more likely to express suicidal ideation than people in the general community, they are only equally likely to attempt suicide and less likely to complete the act...suggest[ing] that 'the comprehensive initiatives on literacy and suicide prevention currently being implemented in Defence may, in fact, be having a positive impact' (2.44 at 23-24).*

#### 1.4.3 Government response<sup>14</sup>

The Government's response acknowledged and stressed that military service places personnel in harm's way not only on operational deployment but also in training, when engaged in disaster and humanitarian relief, and during border protection.

The response indicated Government satisfaction with the availability and adequacy of ADF and DVA mental health support. It emphasised the importance of early intervention:

*.....if you or your family or friends are worried about how you are coping or feeling, then seek help early. We know that the earlier people seek health, the better their prospects for earlier and more successful recovery.*

This exhortation assumes that those needing help are aware of the comprehensive support programs the ADF and DVA offer. Awareness cannot, however, be assumed. Again, the need is underscored for thorough awareness programs. ADSO monitors a significant number of social media sites frequented by younger veterans and their families. That exercise reveals that few are aware of the information available on either the Defence Community Organisation website<sup>15</sup> or in DVA's Factsheets.<sup>16</sup>

<sup>14</sup> Commonwealth Government of Australia, 2016, Australian Government Response to the Foreign Affairs, Defence and Trade Committee Report, *Mental Health of Australian Defence Force Members and Veterans*, September 2016, Senate Printing Unit, Parliament House, Canberra, ISBN 978-1-76010-382-8.

<sup>15</sup> <http://www.defence.gov.au/dco/Emergency-support.htm> [accessed 3/10/16]

<sup>16</sup> <http://www.dva.gov.au/about-dva/dva-factsheets> [accessed 3/10/16]

The Inquiry is encouraged to note that ADSO seeks to partner with the ADF, DVA and the Commissions to facilitate veterans' awareness.

### **1.5 Resilience Building**

ADSO acknowledges that the ADF's current preparation of personnel for, and support after combat is far more comprehensive than any conflict up to and including Vietnam. Effective pre-enlistment screenings, and recruit and professional training programs are essential preparation for combat. Pre-deployment psychological support and assessment,<sup>17</sup> decompression and RTAPS,<sup>18</sup> and support after a critical incident during non-operational service, further enhance resilience to trauma. Enhanced resilience in turn lowers the potential for suicide by serving and ex-ADF personnel.

Notwithstanding, it must be acknowledged that for some the inculcation of service values and team building during recruit training is, of itself, traumatic. Moreover, DART provides evidence that, for others, unacceptable behaviours by peers and superiors exacerbated the trauma of acculturation during recruit training. While it is acknowledged that the ADF chaplaincy provides invaluable spiritual support, its wider resilience-building capacity is under-utilised. ADSO therefore submits that the Inquiry aim to identify the effectiveness of ADF resilience activities and the potential for wider use of chaplaincy support in militating against veteran suicide.

The possibility of a link between the effectiveness of ADF resilience training, Commissions' administration of veterans' legislation and veteran suicides suggest that resilience is an issue for transition and that resilience support should continue into civilian life. ADSO therefore submits that the Inquiry look to identify and recommend a Defence-DVA resilience pathway that includes in-service resilience training, transition, rehabilitation, Non-Liability Health Care<sup>19</sup> and VVCS.

### **1.6 Effect of Coronial Jurisdiction**

ADSO notes that a death can only be classified as 'death by suicide' if it is the formal finding handed down by a Court of competent jurisdiction presided over by a Coroner conducting an inquest into the death. With respect to this Senate Inquiry, ADSO therefore submits that if a Coroner does not find the death to be by own hand, or returns an open or other verdict, the Standing Committee cannot safely reference the statistic.

The upshot that the Inquiry should note is that, even though a veteran may lodge a claim for attempted suicide or the veteran's family a claim for death by suicide, DVA is precluded from processing the claim until a Coronial finding of suicide is handed down. This inevitably causes additional stress for a veteran recovering from an attempted suicide, or hurt for a grieving family.

ADSO concludes that the resulting delay is unavoidable. It must therefore be explained, again underscoring the wider need for veterans and their families, to be thoroughly informed.

### **1.7 ESO Responses**

ADSO acknowledges and strongly supports the highly effective suicide prevention and ongoing support arrangements being provided by Overwatch Australia.<sup>20</sup> Its use of social media to identify and respond to crisis events is outstanding. The Inquiry should note the excellent life-saving work of this body of ex- service volunteers.

<sup>17</sup> Pre-deployment preparation covers a 'threat matrix' of: '...harm to self; threat of psychological harm from exposure to others being injured; psychological harm relating to organisational factors (such as leadership and communication); operational tempo (such as the ability to work and rest); and isolation (either from family/friends or from Australia).' Medbury, J. 'Operations, Post-operational Debriefing in the Army', Abstract 2012, *Australian Army Journal*, Vol 5, No 3, pp.53-64.

<sup>18</sup> RTAPS: Return to Australia Psychological Support.

<sup>19</sup> <http://www.dva.gov.au/factsheet-hsv109-non-liability-health-care>

<sup>20</sup> [www.overwatchaustralia.org.au/](http://www.overwatchaustralia.org.au/) [accessed 3/10/16]

The Inquiry should also note the profound concerns within the veterans' community that motivated the creation of an Australian Veterans Suicide Register.<sup>21</sup> That it is at least a first step to chronicle veteran suicides is important; that it raises community-wide awareness of veterans' suicides is invaluable for transparency purposes. For the reasons at section 1.1 above, we are cautious about unexamined reliance on the Register's statistics and would encourage a validation process.

### **1.8 Issues for the Inquiry**

In summary, ADSO submits that the Inquiry note the following:

1. The veteran suicide rate is not clear as to whether it is higher or lower than that of the Australian general population; there is currently no official way of identifying if a suicide is a veteran.
2. ADF values, self-discipline, resilience training, and in-service support should arguably result in a lower veteran suicide rate than for the general population.
3. The causes of veteran suicide are complex and multifactorial. Simple arguments about, and equally simple solutions for suicide prevention will not be adequate.
4. The need for creating a resilience-strengthening pathway that seamlessly links in-service, immediate pre-transition, transition, and post-transition support should be examined.
5. The perception that the rehabilitation and compensation decision process is unreasonable, oppressive, and runs counter to timely and equitable support, and therefore contributes to veteran suicide, should be investigated.
6. Whether the bureaucratic focus on due process is an exacerbating factor and is contributing to veteran suicide should be investigated.
7. The need for a unique identifier for serving and former ADF personnel be examined. It was a recommendation that fell out of a Joint Standing Committee report on 'Care of ADF Personnel Wounded and Injured on Operations'.

## **Term of Reference (b)**

### **- Previous reviews of military compensation arrangements and their failings**

#### **2.1 Rational Decision-Making**

ADSO encourages the Inquiry to address the too often-heard grievance of 'inconsistent decisions' by Delegates. There seems little to be gained from arguing whether such grievances are well founded. Offering a framework for remediation has the potential for more acceptable outcomes. In that regard, it is worthwhile noting that DVA's strategic plan '*Towards 2020*' includes a significant culture change objective, and that a staff training program has been implemented that included culture change elements.

##### *2.1.1 Observations*

Whether real or imaginary, the perceptions that decisions by Delegates are inconsistent has tarnished the Commissions' (incorrectly, the Department's) image. Many, especially younger veterans, do not believe that legislation is applied equitably, consistently and beneficially. We note the possibility that Commissions' policy on *balance of probabilities* is illegal (see p.3, note 5).

ADSO notes that the need for the Full and Federal Courts to hand down judgements on the beneficial intent of veterans' legislation is evidence that, from time-to-time, Delegates have

<sup>21</sup> <https://www.facebook.com/AustralianVeteransSuicideRegister/> [accessed 3/10/16]



misapplied beneficial provisions. As a result, again the Commissions' image is tarnished with non-contestable justification.

### 2.1.2 Framework

Gribch introduces a framework for understanding in a journal article on administrative decision-making. She identifies a fundamental challenge that a claims Delegate faces in almost every decision, one that almost inevitably risks an allegation of inconsistency:

*In an administrative system the standard of proof is often met by a presumption or rule which accords to a fact found elsewhere a weight which may not be supported by the evidence.*<sup>22</sup>

Robbins, *et al*, compound the challenge Delegate's face when they catalogue the limits to rationality in decision-making:<sup>23</sup>

1. *There are limits to an individual's information-processing capacity.*
2. *Decision-makers tend to intermix solutions with problems.*
3. *Perceptual biases can distort problem identification.*
4. *Many decision-makers select information for its accessibility than for its quality.*
5. *Decision-makers tend to commit themselves prematurely to a specific alternative in the decision process, thus biasing the process towards that alternative.*
6. *Evidence that a previous solution is not working does not always generate a search for new alternatives.*
7. *Prior decision precedents constrain current choices.*
8. *Organisations are made up of divergent interests that make it difficult, even impossible, to create a common effort toward a single goal.*
9. *Organisations place time and cost restraints on decision-makers.*
10. *A strong conservative bias exists in most organisational cultures. Most organisational cultures reinforce the status quo, which discourages risk taking and innovation.*

ADSO submits that the preceding discussion discloses a close inter-relationship between systemic demands and human characteristics. To ensure balance, the Inquiry will therefore need to examine the relevant systemic and human factors, and the interaction between them.

## 2.4 Issues for the Inquiry

In summary, ADSO submits that the Inquiry note the following:

1. DVA has been subject to critical review, is incontestably aware of its failings, and its strategic plan *DVA Towards 2020* and the Lighthouse Project attest concretely to the reform pathway and intended outcomes DVA intends implementing.
2. Review data show significant improvement in MRCA TPP since FY2012-13, providing early evidence that reforms are gaining traction.
3. The Inquiry must balance justifiable criticism with robust assessment of progress to date, and provide informed guidance on the reform pathway and intended outcomes.
4. The Inquiry must make an informed judgement on whether or not it will recommend to Government the passage of DVA's Project Lighthouse Appropriation Request.

<sup>22</sup> Gribch, Judith E. 'Repatriation Disability Pensions: Reverse Onus of Proof Problems in the Determination and Review System', *Monash University Law Review*, Vol 10, June 1984; p.74.

<sup>23</sup> Robbins, S.P., Bergman, R., & Stagg, I., 1997, *Management*, Prentice Hall, Australia; p.183-185.

## Term of Reference (c)

- **The Repatriation Medical Authority's Statements of Principles, claims administration time limits, claims for detriment caused by defective administration, authorised medical treatment, level of compensation payments, including defence abuse, as contained in all military compensation arrangements**

### 3.1 Statements of Principle (SOPs)

ADSO notes that SOPs have been in operation since 1994, are *disallowable instruments*, and once promulgated, have the force of law. Although challenged, their supremacy has been upheld by review appeals and Federal Court judgements. They are therefore integral to the VEA and MRCA claims determination process.

SOPs provide a high level of certainty for an ESO's Compensation Advocate<sup>24</sup> when assessing the probable viability of a claim or appeal. If a veteran is able to meet one Factor in the SOP relevant to his/her condition and nature of service, the Advocate can be reasonably sure the claim or appeal will succeed. If no causal link exists between the condition and the veteran's service, the claim or appeal must fail.

ADSO also notes that, when considering a claim, the Delegate must consider not only the claimed factor but also every other factor in the relevant SOP. While, from time-to-time, an Advocate may find that a Delegate has failed to fully and properly consider each Factor in an SOP, such failures may, on application, be reviewed by another Delegate or appealed to the Veterans' Review Board and then the Administrative Appeals Tribunal.

The evidence from successive reviews of the advocacy system and advocate training (see page 3, Note 4 above) demonstrates significant variations in the competency of practicing advocates. ADSO submits that a proportion of failed claims (and appeals) are the result of inadequate advocacy. Regrettably, DVA is not yet able to routinely monitor or record the quality of advocates' claims. This, along with poor oversight by too many ESOs, has hampered identification and further training of incompetent or poorly motivated advocates.

The future likelihood of such shortcomings will, however, be reduced in future. ATDP will involve assessment of competency, the Lighthouse Project will introduce an electronic wizard that relates a veteran's service and the relevant SOP, and we understand that DVA will soon be able to monitor Advocates' success. In other words, the claims process will be streamlined, the need to quantify certain activities to satisfy some SOP Factors will be obviated, and an integrated quality assurance system will be in place.

ADSO strongly supports implementation of each of these improvements.

### 3.2 Claims Administration Time Limits

#### 3.2.1 MRCA claims

Noting that the target of 120 days, Lewis<sup>25</sup> usefully tabulates the Time Taken to Process (TTP) MRCA claims as follows:

<sup>24</sup> What were termed Pension Officers during the Training and Information Program (TIP) era (1992 to 2015), are now termed Compensation Advocates Level 1 to 4 (depending on level of competency) under the new Advocacy Training and Development Programme (ATDP).

<sup>25</sup> Lewis, S., Military Rehabilitation and Compensation Commission, June 2014, *Review of Statutory Timeframes: MRCA 2004*, online at <http://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/reviews/review-MRCA.pdf>, para 3.24 at pp. 9-10. [accessed 19/9/16]

Year	2004-05	2005-06	2006-07	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14 (at March)
Mean TPP	90	146	188	153	143	152	158	155	139
Initial liability claims received	678	1516	2113	2450	3181	3386	4138	4789	4237

DVA's FY2013-14 Annual Report records a whole-of-year average TPP for MRCA claims of 144 days<sup>26</sup> and its FY2014-15 Annual Report a further reduction to 109 days.<sup>27</sup> These data show that, despite a seven-fold increase in MRCA claims received, the three-year trend is one of improvement. The Commissions significantly bettered the TPP target in FY2015-16.

The data suggest that the trauma and frustration reportedly experienced by MRCA claimants is the result of the Commission's performance from FY2005-06 to FY2011-12.

### 3.2.2 SRCA claims

We note that, in its earlier report this year, the Standing Committee cited the SRCA TPP in FY2013-14 to be 160 days.<sup>28</sup> As for MRCA, the TPP target for SRCA claims is 120 days.

### 3.2.3 Improvements

ADSO acknowledges the positive improvements in processing time arising from the Minister for Veterans' Affairs authorisation with effect 15 September 2016 of streamlined claims processing for 13 disabilities under both the VEA 1986 and MRCA 2004, and notes the Lighthouse Project objective to expand the number of conditions that are covered by streamlined claims processing. We reiterate the fundamental importance of the Lighthouse Project Appropriation Request.

## 3.3 Defence Abuse

ADSO condemns in the strongest possible terms all abuses that traumatise a victim, and commends the DART Taskforce for the sensitivity and thoroughness of its investigations.

ADSO encourages the Inquiry to recommend that the Commissions take effective measures to ensure that all claims lodged after in-service abuse are dealt with expeditiously and sensitively, and that the full beneficial intent of the legislation is applied.

## Term of Reference (d)

### - To investigate the progress of reforms within DVA

ADSO submits that, while the Time Taken to Process statistics at section 3.2 are a necessary indication of progress, they are not sufficient to provide a thorough understanding of the fundamental nature of DVA's Reform Program. Three documents are seminal.

### 4.1 Public Service Commission Review

In a penetrating Capability Review of DVA in 2013,<sup>29</sup> the Public Service Commission identified three key focus areas that needed urgent attention; namely, DVA's:

1. *operating structure, governance arrangements and information and communications technology (ICT);*
2. *approach to clients, culture and staffing;*
3. *efforts to formulate effective strategy, establish priorities and use feedback.*<sup>30</sup>

<sup>26</sup> MRCA-related claims. Online at <http://www.dva.gov.au/about-dva/accountability-and-reporting/annual-reports/annual-reports-2013-14/MRCC-6> [accessed 2/10/16].

<sup>27</sup> [http://www.dva.gov.au/sites/default/files/files/about%20dva/annual\\_report/2014-2015/dvaanrep.pdf](http://www.dva.gov.au/sites/default/files/files/about%20dva/annual_report/2014-2015/dvaanrep.pdf), p.56.

<sup>28</sup> Above, n.6, 5.51 and Table 5.2 at p.112.

<sup>29</sup> Australian Public Service Commission, *op cit*.

<sup>30</sup> *op cit*, p.5.

Critical systemic and cultural challenges identified in the Commission's review include:

*... the keenness of DVA staff to meet veteran expectations, in the absence of well-articulated parameters, is at times leading to inconsistent service levels. Perversely, prompt access to service may also be denied at times by excessive aversion to risk grounded in fear of giving offence to the veteran community; and not being sufficiently well equipped to communicate fair decisions to clients when the outcomes under legislation do not meet client expectations.<sup>31</sup>*

The Commission did, however, acknowledge DVA's awareness of its challenges:

*...the Secretary of DVA and many members of its leadership team have a sense of urgency to bring the department up-to-speed to transform it into an efficient, modern organisation.<sup>32</sup>*

Indeed, the Secretary testified to being aware of the challenges his Department was facing:

*We have known for some time that many aspects of DVA's current operating model including scale, processes and systems would become unsustainable.<sup>33</sup>*

The Commission stipulated the Secretary's reform task and the required outcome:

*.....the Department [must] enhance its capability and mobilise its workforce so that it can become an efficient and effective modern public sector organisation meeting community expectations.<sup>34</sup>*

#### **4.2 Review of Statutory Timeframes**

Lewis<sup>35</sup> review of statutory timeframes identified the following key factors that impinge on MRCA TPP:

- *the investigative nature of the claims process;*
- *the time between incident and lodgement of a claim;*
- *the complexity of claims;*
- *the receipt of incomplete claims; and*
- *the involvement of external parties, such as the Department of Defence (Defence) and medical providers, in the claims process.*

#### **4.3 Lighthouse Project**

ADSO presumes that DVA's submission to the Inquiry will outline progress made to address the foregoing key focus areas and remedy those it can. Its submission is likely to also detail the Veteran-Centric Reforms it is progressing through the Lighthouse Project.<sup>36</sup>

ADSO submits that DVA's frank admission of its failings, improved TPP between FY2011-12 and FY2014-15, and the vigour with which it is progressing organisational reform and culture change through the Lighthouse Project will, if known, do much to assuage the veteran-community's invidious perceptions. These perceptions will likely take time to ameliorate.

Again, the need for DVA and the Commissions to actively canvass its intentions and achievements is underscored. In this respect, ADSO has noted that Lighthouse Project materials are already available to start awareness enhancement. For example, the materials illustrate and explain the Project's reform outcomes with reference to an easily understood diagram below:<sup>37</sup>

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<sup>31</sup> *op cit*, p.9

<sup>32</sup> *op cit*, p.5.

<sup>33</sup> *op cit*, p.42.

<sup>34</sup> *loc sit*.

<sup>35</sup> *op cit*, para 3.24 at pp. 9-10.

<sup>36</sup> VCR Light House Project Discovery Pack.

<sup>37</sup> *loc cit*, p4.



ADSO strongly supports the Department's Veteran-Centric Reform objectives and repeats its wish to be an active partner with DVA in enhancing veteran awareness.

#### 4.4 Summary

ADSO submits that, the preceding level of official criticism and with the Secretary's attestation on-the-record, it is inconceivable that the grievances expressed across the veteran community are not being addressed. Indeed, the time-to-process (TPP) data, indicate that DVA has had effective action underway for at least three years. The (then) Minister's FY2013-14 date of initial release of the strategic plan '*DVA Towards 2020*' supports this deduction. And the Lighthouse Project is concrete evidence of the Department's implementation pathway and intended outcomes.

To reiterate, the passage of DVA's intended Appropriation Requests is essential to the Reforms being implemented. ADSO has every intention to facilitate in any way possible the passage of a Lighthouse Project-based Appropriation Request.

#### Term of Reference (e)

**- The administration of claims by DVA and the legislative or other constraints on effective rehabilitation and compensation for veterans**

#### 5.1 Veterans Legislation

Veterans' entitlements are governed primarily by *VEA 1986* and *MRCA 2004*. Some veterans are also able to claim rehabilitation and compensation under *SRCA 1988*.

##### 5.1.1 *VEA 1986*

Understandably, given that has benefitted all veterans with peacetime from 7 December 1972 to 6 January 1994, veterans with peacetime service who enlisted before 22 May 1986 and discharged as late as 30 June 2004, and all veterans with operational service from WWI to 30 June 2004, *VEA* is seen to be the 'gold standard'. This perception is bolstered by the volume of case law and calibre of the judgements that have refined interpretation of the Act.

##### 5.1.2 *MRCA 2004*

*MRCA*, which commenced on 1 July 2004 and merges features of *SRCA* and *VEA*, has yet to accumulate a significant volume of citable case law. ADSO submits that a number of differences from *VEA* colour the veteran community's perceptions of *MRCA*.

Advocates with long VEA experience perceive MRCA to be complex. As a result, some advocates are known to refuse to support veterans that are subject to MRCA. Through misunderstanding or otherwise, the resulting grievances are aired angrily on social media.

For those advocates with long experience - and therefore familiarity – with VEA, the recency of MRCA’s enactment and, as yet, limited number of judgements cause uncertainty for advocates. The Act’s ‘stable and permanent provisions’ (ss68, 71 and 199 in conjunction with ss68 and 71) and medical examination provisions (s328, in conjunction with ss325 and 326) are known to frustrate veterans awaiting PI, SRDP and INCAP compensation determinations.

## **5.2 SRCA 1988**

SRCA 1988 provides another avenue of rehabilitation and compensation support for those with service between 3 January 1949 and 30 June 2004. ADSO notes that SRCA’s military provisions have been excised and a new ‘military SRCA’ is to be, or is being drafted.

### *5.2.1 White Card*

Following ESO consultations, veterans receiving support under SRCA were granted a White Card (Health Care Card - Specific Conditions). The objective was to facilitate administration of medical care. The White Card is linked to the Scheduled Fee (as were VEA and MRCA beneficiaries already). An unfortunate result was that SRCA military beneficiaries were no longer entitled to medical treatment deemed to be of ‘reasonable cost’.

### *5.2.2 Hearing services*

The preceding change has only affected veterans that are long-term SRCA beneficiaries. It has, however, led to an invidious comparison. Veterans with hearing services provided under SRCA have very significantly affected by the change. Whereas they were entitled to whatever hearing aid best met their disability and was deemed a ‘reasonable cost’, the Scheduled Fee covers only the cost of a base-level hearing aid. The price difference for aid that best meets the veteran’s need is his/her own.

DVA has convened a Hearing Services Working Group to facilitate ESO contribution to the policy review. ADSO submits that to reduce a benefit is both unjust and unfair. There is only one just and fair decision. We submit that the Inquiry consider the following recommendation: the cost of a hearing aid that best meets the veteran’s clinical need be covered for those that were beneficiaries before the date of change.<sup>38</sup>

## **5.3 Outsourcing Service Provision**

ADSO submits that the DVA’s contracting of service delivery is a factor in some veterans’ deteriorating mental health. The evidence is that too many Independent Medical Examiners and Approved Rehabilitation Program Providers approach their contracted responsibilities as though veterans are compensation insurance claimants from the general community – with all the associated pejorative connotations.

ADSO submits that when contracting services DVA retains the same duty of care that it would have were it the service provider. This confers a responsibility on DVA to monitor service provision and actively survey veterans’ level of satisfaction with the services they receive. We accept that DVA has in place a complaints process;<sup>39</sup> however, its role is passive. The veteran is responsible for reporting dissatisfaction. This responsibility presumes that the veteran is aware of the DVA feedback process. Again, active dissemination of information is necessary.

<sup>38</sup> ADSO is aware that this is also the Returned and Services League’s desired outcome.

<sup>39</sup> See <http://www.dva.gov.au/factsheet-dva21-feedback> and <http://www.dva.gov.au/contact/feedback>

## 5.4 Administration of Legislation

ADSO reiterates that DVA and the Commissions need to actively canvass the beneficial intent of veterans' legislation. This will be particularly important during consultations with ESOs on the new 'military SRCA'. On the evidence of previous legislative consultations, and consideration of new legislation or amended provisions considered by Working Groups and agreed at the ESO Round Table, ESO representatives have not always been able to identify the implications of legislative provisions.

Inevitably, such occurrences have spurred cynical suggestions that 'the Department has (deliberately) pulled the wool over ESOs' eyes'. ADSO submits that, for the good of all veterans, the past combative relationship between DVA and ESOs must be set aside. Only if ESOs and DVA work together in a robust partnership can the beneficial intent of veterans' legislation be administered effectively now and preserved into the future.

Similar and often far more critical comments are ubiquitous across the range of Facebook sites frequented by younger veterans and their families. Sites that the Inquiry may wish to sample include *DVA Fail*; *DVA Entitlements*; and *DVA Overpayments*. While veterans also post grievances on the following sites, a small number of experienced Advocates are voluntarily correcting misinformation with links to DVA Facebook URLs and RMA SOPs: *DVA Golf Card Benefits and Concessions*; and *DVA Claims, Cards & Payments Veterans Information Group*.

ADSO submits that, although DVA posts on its own Facebook site (*DVA AUS*), scope exists for it to monitor the sites above. It will, however, need to be judicious as some of the sites are averse to DVA monitoring or posting on their site. This caution aside, prudent posts offer an opportunity for DVA to build veterans' confidence and awareness of legislation and policy, and legislative or other constraints on rehabilitation and compensation.

## Term of Reference (f)

### - Any other related matters

ADSO commends the following matters to the Inquiry for the importance of their relationship with the Terms of Reference.

## 6.1 Australian Military Covenant<sup>40</sup>

ADSO has long maintained and submits to the Inquiry the fundamental importance of a formal commitment between the Nation and its Defence members. The commitment is mutual and

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<sup>40</sup> A Covenant, in its most general sense, is a solemn promise to engage in or refrain from a specified action; in this case, specific relationship. The mutual commitments enshrined in ADSO's proposed Covenant follow:

*The Australian Defence Force (ADF) was formed to defend Australia, and protect its people and its interests. The service men and women who make up the ADF are Australian citizens who, while serving, must forego basic Human Rights enjoyed by other citizens.*

*They must comply with the additional legal and disciplinary requirements of Military employment. When necessary this will include taking up arms against Australia's enemies and defeating them in battle using lethal force.*

*They will be called upon to make personal sacrifices – including the possibility of the ultimate sacrifice - and in every sense to act honourably in the service of the Australian people.*

*In return, Members of the Australian Defence Force must always be able to expect, from the Commonwealth Government on behalf of their fellow Australians, fair treatment, to be valued and respected as individuals, and that they (and their families) will be sustained and rewarded by commensurate terms and conditions of service. They further expect that those who are injured in service to the Nation and the families of those who die as a result of their service will be suitably cared for and sustained.*

*This mutual obligation forms the Covenant between the Nation, the ADF and each individual member of the ADF. It forms an unbreakable common bond of identity, loyalty and responsibility from which the "ANZAC Spirit" has emerged that has sustained the ADF in conflicts throughout its history.*

reciprocal. Uniquely, service personnel commit to service, if required to sacrifice their life, in defence of the Nation. In return, the Nation commits to caring for and supporting those who during or as a result of their service are injured or suffering from disease. The Nation also commits to the care and support of the families of those killed during or who die as a result of their service.

ADSO notes that this commitment is strongly rooted in the Nation's history. Almost 100 years ago, the (then) Prime Minister, W.M. Hughes stating the Commonwealth's obligation to care for those of its citizens it commits to the danger or trauma of war. The obligation has not diminished over time. Indeed, the issues that spurred this Inquiry and its March 2016 counterpart demonstrate that the need remains as great as ever.

With respect to this Inquiry, ADSO advises that is firmly committed to promoting and advocating for the health and wellbeing of veterans and their families. Our promotion of a Military Covenant is grounded in the same rationale that grounds the beneficial intent of veterans' legislation including the reverse onus or proof applied to SOP for operational and warlike service. It extends the Commonwealth's legislated commitment into a formal national commitment. ADSO notes that support for a Military Covenant already exists in the Senate.<sup>41</sup>

## 6.2 Post-transition Health Care

ADSO strongly supports the MOU entered into by DVA and Defence and its implications for veterans' care and support in preparation for, during and after transition. The MOU is endorsed as a further signal of Commonwealth commitment to veterans. ADSO notes that the Lighthouse Project would not have been possible without the exchange of veteran's service records that is a result of the MOU. The Departments' objective of a seamless transfer of duty of care is firmly endorsed.

Veterans' experiences demonstrate that personal and administrative are not solved by MOU alone. Younger veterans' forums and Facebook posts provide significant evidence that too many veterans are poorly prepared for and traumatised by their transition. Participants in one Forum<sup>42</sup> described transition as '*culture shock*'. They said that *having been institutionalised, they didn't know how to help themselves*. Specific comments included the following, each of which elicited responses from other participants that indicated the experiences were common:

*Although I was discharged for a specific medical condition I had to prove to DVA that I had the same condition*

*During discharge no-one asks do you understand this information/are you going OK with everything, and there is no follow-up after discharge*

*I have to repeat the story too many times – Defence, DVA, numerous medical professionals, pension officers, welfare officers – it never ends*

*I was just told to do my rehabilitation program and just get better. I wasn't offered any employment. My job for 12 months was to go to the physiotherapist once a week.*

Added to such experiences is the everyday demand of re-establishing in civilian life. Frequent challenges include finding a GP or specialist that understands DVA processes or is prepared to provide clinical support or prepare a report for the fee that DVA pays.

ADSO accepts that some of these issues can only be solved by veterans, while others will be resolved by the Lighthouse Project. ADSO also accepts that some can only be resolved at Government level. For example, the need for veterans to pay the difference between the Scheduled

<sup>41</sup> In 2014 Senator James Mc Grath spoke in the Senate, unequivocally supporting the establishment and ratification of a Military Covenant, stating *inter alia*:  
*It is my hope that all federal political parties, including my own, will subsequently incorporate the concept and principles of the Australian Defence covenant within their respective legislative agendas. It is high time that we gave back to this extraordinary group of Australians.*

<sup>42</sup> Younger Veterans' Forum, Sydney, 10 July 2015, convened by Training Consultative Group, NSW-ACT.



Fee and the fee charged by a specialist for a surgical procedure or a medical report is, by any measure, contrary to the notion of beneficial intent. We note, however, that it is DVA that veterans identify as the cause of the problem.

ADSO submits that, as a proportion of the general population, the veteran community has little electoral power. We accept that the Government's budgetary challenges constrain expenditure on social programs. The relationship between DVA's fees and the health care fee structure for the general community results in constraints for the majority flowing on the veteran minority. ADSO submits that this is contrary to the obligation enunciated by Prime Minister Hughes and to the rationale on which beneficial intent is grounded.

ADSO submits that the Inquiry examine DVA's culture change program and, if appropriate, recommend inclusion of awareness training for staff on the challenges veterans face during transition and while settling into civilian life. We also submit that the Inquiry examine the equitability of the current DVA health care fee structure as a factor in veterans mental health and suicide.

### 6.3 MRCA and MRCC Rehabilitation Policy

ADSO welcomed DVA's invitation to nominate representatives to the recent review of the Special Rate Disability Pension. During deliberations our representatives identified that MRCC policy may not reflect – either in word or in application – the beneficial intent of SRDP provisions. We note that the evidence given by the DVA Representative to the Royal Commission into Institutional Responses to Child Sexual Abuse (Note 5, p. 3) suggests that there may be other disconnects between legislation and /MRCC policy.

#### 6.3.1 Aim of rehabilitation

Veterans had advised that veteran's applications for vocational or tertiary studies had been rejected as components of a rehabilitation program, and veterans doing voluntary work had been deemed capable of paid employment.

Paraphrasing MRCA s38, the aim of rehabilitation is to *maximise the potential to restore a person...to at least the same physical and psychological state and social, vocational and educational status as before the injury or disease* (our emphasis). We note the s41 definition of a rehabilitation program.<sup>43</sup>

#### 6.3.2 Psychosocial rehabilitation<sup>44</sup>

MRCA Policy 6.5 advises Delegates that:

*psychosocial rehabilitation helps clients develop confidence to set goals, plan ahead and develop skills...reintroduce structure into their lives....develop new expectations...alleviate anxiety...build resilience...foster hope*

While the policy appears to enable education and training as psychosocial rehabilitation, Delegate's decisions are possibly constrained by the following:

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<sup>43</sup> **rehabilitation program** means a program that consists of or includes any one or more of the following:

- (a) medical, dental, psychiatric and hospital services (whether on an in-patient or out-patient basis);
- (b) physical training and exercise;
- (c) physiotherapy;
- (d) occupational therapy;
- (e) vocational assessment and rehabilitation;
- (f) counselling;
- (g) psycho-social training.

<sup>44</sup> <http://clik.dva.gov.au/rehabilitation-library/6-psychosocial-rehabilitation>

*It is important to note that most psychosocial interventions would be considered to be of a short term nature or a one off activity. Some programs may however run for a number of weeks or months (our emphasis).*

ADSO submits that MRCC policy does not adequately recognise the psychosocial benefit of education and training, and therefore does not reflect the beneficial intent of the legislation. We note that the ESO Consultative Group advised the MRCC of this finding, and submit that the Inquiry specifically note the psychosocial benefit of education and training in suicide prevention.

### 6.3.3 Vocational rehabilitation<sup>45</sup>

While psychosocial rehabilitation policy appears to proscribe education and training MRCA Policy 9.7.1 provides a wider scope:

*Where clients are highly motivated to undertake vocational training, research indicates that they are more likely to make a successful return to work once they undertake their desired course of training ... a course of vocational training is likely to empower rehabilitation clients and give them the confidence to pursue a new career ... Tertiary qualifications will provide ... security of tenure within the labour market generally. (our emphasis)*

While this extract does not specifically authorise Delegates to approve rehabilitation through tertiary or VET studies, nor does it encourage rejection of applications for further study. We therefore submit that rejection may stem from another cause. While the evidence is anecdotal, ESO Consultative Group members alleged that a Delegate said to one veteran: *You're a soldier and don't have the brains to go to university*. And another Delegate is alleged to have said to another veteran: *You don't need that TAFE course, there's no job available*.

ADSO notes that DVA's Lighthouse Project includes culture change objectives. We submit only that the Inquiry note rejection of applications for tertiary and VET training possibly on the basis cultural perceptions about veterans' capabilities ADSO again submits that the Inquiry support passage of a Lighthouse Project Appropriation Request.

### 6.3.4 Legislative constraint?

ADSO is concerned that the Act aims only to 'maximise the potential to restore' (para 6.3.1). We accept that, were the aim to be 'to restore', grounds may exist for common law action if rehabilitation did not achieve that aim. As currently worded, the provision therefore, fails DVA's full duty of care obligation.

We note, however, that MRCA Chapter 3 – Rehabilitation does not appear to include a termination provision. This suggests that the intent of the provisions is rehabilitation support for life. With the best of intentions, such differences provide ample room for diametrically opposed decisions.

ADSO submits that the Inquiry note this issue as an example of how MRCC policy can both misrepresent legislative intent, and open possibilities for misinterpretation in a way contrary to beneficial intent. In other words, such differences are a possible mental health and suicide factor, and therefore require a comparative review of MRCA provisions and MRCC policy.

### 6.3.5 Voluntary Work as Rehabilitation<sup>46</sup>

ADSO is concerned that MRCC policy on voluntary work frustrates veterans' access to an invaluable rehabilitation opportunity. Volunteering puts the rehabilitating veteran in contact with others and diverts their focus from themselves to others.

<sup>45</sup> <http://clik.dva.gov.au/rehabilitation-library/9-vocational-rehabilitation>

<sup>46</sup> <http://clik.dva.gov.au/military-compensation-mrca-manuals-and-resources-library/historical-reference-policy-instructions/no-4-voluntary-work-and-its-impact-incapacity-payments-under-srca-and-mrca>

We note that Military Rehabilitation and Compensation Scheme Policy Instruction No. 4, dated 3 February 2009, reiterates MRCA's rehabilitation focus, and are grateful for the policy advice that:

- *voluntary work does not have the same pressure or stress inherent in paid employment and should not on its own connote a person's capacity to undertake paid work; and*
- *each case needs to be assessed on its individual circumstances and voluntary work can have significant medical/social rehabilitation advantages for claimants.*

ADSO is concerned by the focus on earning capacity in many of the ensuing paragraphs in the Instruction:

*The receipt of salary or wages is not a prerequisite to determining an ability to earn in suitable employment. If the evidence indicates an ability to earn in suitable employment, it is not a requirement of the MRCA that payment [actually be received] for employment. On this basis, voluntary work rather than paid employment may be used during rehabilitation assessment [of] ability to earn, however, [it] does not in and of itself connote directly an ability to earn (our emphasis).*

ADSO submits that the policy provides too much latitude for interpretation by Delegates, with the potential to undermine the beneficial intent of the legislation. This, in turn, is a factor in mental health and suicidality. We further submit that MRCC policy must actively and clearly encourage voluntary work as part of the person's psychosocial rehabilitation.

## 6.4 Reserve Service

The tempo of deployments has placed and continues to place significant demands on the ADF full-time and reserve personnel. More personnel ADF have deployed to Afghanistan now than did their predecessors to Vietnam. Multiple operational, disaster and humanitarian, and peacekeeping deployments, and border-protection duties are common. All such activities, and peacetime training, incur a risk of injury or worse and, in many cases, the development of PTSD. While ADSO notes that DVA is aware of the ramifications of operational deployment for veterans' support,<sup>47</sup> we wish to submit the following concerns for the Inquiry's attention.

### 1.4.1 Non-Liability Health Care<sup>48</sup>

Factsheet HSV109 stipulates that to be eligible for Non-Liability Health Care (NLHC) for mental health disorders all veterans must have rendered a period of continuous full-time service (CFTS).

Amongst other provisions, to be eligible for cancer and pulmonary tuberculosis NLHC the reservist must have been engaged for at least 3 years CFTS but have been discharged as unfit for duty because of physical or mental incapacity before completing 3 years CFTS,<sup>49</sup>.

In other words, reservists who render training days, train for deployment or support those who do deploy, but do not deploy themselves (viz. do not render CFTS), are not eligible for non-liability health care.

ADSO submits that this is iniquitous. For most reserve service, the veteran is no less likely to be exposed to the same dangers and traumas faced by other ADF personnel who train but do not deploy. The only difference is the number of days in a year that the reservist is in uniform.

ADSO submits that the Inquiry recommend Non-Liability Health Care be extended to all reservists.

<sup>47</sup> ESORT, Meeting No 20, Friday 9 November 2012, Agenda Item 4: The Face of DVA Post Afghanistan.

<sup>48</sup> <http://www.dva.gov.au/factsheet-hsv109-non-liability-health-care>

<sup>49</sup> The relevant eligibility criterion is: discharged on the grounds of invalidity or physical or mental incapacity to perform duties before completing 3 years CFTS between 7 December 1972 and 6 April 1994, but were engaged to serve not less than 3 years. We note that the term of engagement appear must have been not less than 3 years CFTS.

#### 6.4.2 Claims processing

ADSO notes that MRCA s5(1) includes the Reserves in the definition of the Defence Force, stipulates that the term Reserves has the same meaning as in the *Defence Act 1903*, and that s6(1) defines peacetime service as any service in the ADF other than warlike and non-warlike service.

This suggests that veterans who are injured, contract a disease or are killed during reserve service have all the entitlements under MRCA as a veteran of the Permanent Forces. ADSO notes, however, that an element of doubt is introduced by the specific inclusion of cadets and declared members at s6(2) as persons to whom the Act applies.<sup>50</sup> Ambiguity and uncertainty undermine veterans' confidence in legislation and its administration.

ADSO submits that the Inquiry recommend clarification of the reservists entitlements under MRCA and ensure that the Commissions process reservists claims identically to Permanent Force veterans.

### 6.5 Mefloquine/Tafenoquine Anti-Malarial Medication

ADSO met a group veterans affected by Mefloquine and Tafenoquine and their adviser Dr Jane Quinn PhD on 10 February 2016. Dr Quinn is a neuroscientist and neuropsychologist. Since the meeting, the cohort has formed the Australian Quinoline Veterans and Families Association (AQVFA). Members of AQVFA participated in the ADF trial of Quinoline-based malarial prophylaxis, or have operational service in East Timor and/or other operational areas where Mefloquine and Tafenoquine was prescribed.

Dr Quinn advised that Mefloquine toxicity affects the part of the brain that govern anxiety, fear and normal cognitive functioning. Extreme anxiety, paranoia, auditory or visual hallucinations, vestibular disorder and tinnitus are symptoms of affected individuals. Some medical professionals express concern that Mefloquine toxicity exacerbates the symptoms of those veterans with PTSD.

Clearly, Mefloquine/Tafenoquine symptoms will be having no less effect on veterans and their families than other veterans with mental health conditions. A challenge arises from GPs' unfamiliarity with the symptoms of Mefloquine/Tafenoquine. Misdiagnosis and prescription of incorrect medication has occurred. The Defence and DVA have a duty of care to disseminate information to clinicians on the diagnosis and treatment of Mefloquine toxicity.

ADSO welcomes the announcement on 16 September 2016 by the Minister for Veterans' Affairs<sup>51</sup> and asks Inquiry to recommend, as a priority, that the RMA review relevant SOPs with a view to determining a single SOP for Quinoline-based toxicity for both operational/non-operational service.

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<sup>50</sup> s6. Kinds of service to which this Act applies:

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(2) For the purposes of subsection (1), *service with the Defence Force* means:

- (a) for a cadet—participation in the activities of the Australian Defence Force cadets; and
- (b) for a declared member—engagement in, or performance of, activities or acts specified in the determination under section 8 that applies to the member.

<sup>51</sup> <http://www.dva.gov.au/about-dva/media-centre/addressing-mefloquine-concerns>

In part, the Government has committed to:

- *establish a formal community consultation mechanism to provide an open dialogue on issues concerning mefloquine between the Defence Links Committee and the serving and ex-serving ADF community;*
- *develop a more comprehensive online resource that will provide information on anti-malarial medications;*
- *establish a dedicated DVA mefloquine support team to assist our serving and ex-serving ADF community with mefloquine-related claims, which will provide a specialised point of contact with DVA; and*
- *direct the inter-departmental DVA-Defence Links Committee to examine the issues raised, consider existing relevant medical evidence and provide advice to the Government by November 2016.*

## 6.6 Veterans' Families

Creation of the Defence Community Organisation attests to the support needs of veterans' families. The stress experienced by veterans' families while spouses are absent on duty is incontestable. Senator Mc Grath has acknowledged the significant role families play:

*While I am certain that everyone in this chamber is conscious of the threats to life and limb that our men and women in uniform face, what is less apparent are the smaller sacrifices that they and their families make every day. I am talking now of those who miss the birth of their first child while serving overseas, of those who hold their family together while their partners fight foreign lands and of those children who are forced to change schools and leave their friends every few years so that their parents can continue to serve our country.<sup>52</sup>*

A veteran's spouse adds specific stressors that arise during and after transition:

*After serving and being sheltered under the umbrella of the ADF, the transition process and return into civilian life comes as a rude awakening to many leaving the forces. In particular for those leaving on medical grounds it is far tougher than a lot of life situations previously faced. If mental illness is also thrown into the equation, life becomes much more complicated and a downhill spiral is often imminent. The family descends from quite an adequate income to barely being able to survive from week to week as finances are stretched to the limit, sometimes for years on end as DVA claims are dragged out in an unexpected and unrealistic manner.*

*Is it any wonder that marriages break down under such strain that a lot of veterans are homeless, and some even look to suicide. Tragically sleeping rough can also include partners and children.*

ADSO welcomes the additional \$3.1 million in VVCS funding in FY2016-17 to enable support for:

- *Family members of current and former ADF members who die by suicide or reported suicide*
- *Siblings of ADF members killed in service related incidents*
- *Defence Force Abuse Taskforce complainants and their families*
- *Adult children (over 26) of post-Vietnam War veterans.*

ADSO notes, however, that the lack of long-term VVCS support for divorced or separated spouses is an unresolved duty of care issue. We are unable to reconcile policy that provides life-long support for children of veterans affected by their service, but not the same level of support for the veterans' divorced or separated spouse. Inevitably, separation or divorce follow years of support of the nature identified by Senator McGrath, and experiences such as those advised by the veterans' spouse above.

ADSO implores that, as the physical and mental health consequences of veterans' behaviour is as damaging for an ex-spouse as it is for the couple's children, the Inquiry recommend life-long VVCS support for divorced or separated spouses of those veterans whose mental health condition have been accepted.

## 6.7 Advocacy Training and Development

DVA's concern about the quality of advocacy support provided by ESO advocates spurred a series of reviews (Note10, p.3). These reviews culminated in the Advocacy Training and Development Programme (ATDP) announced by the (then) Minister for Veterans' Affairs in September 2015.

The ATDP objective is to *train and develop selected practitioners to provide high quality advocacy services to current and former ADF members and their dependants where advocacy services cover rehabilitation, compensation, appeals and welfare.*<sup>53</sup> ATDP will involve specified advocacy training pathways leading to certification of advocates and their trainers and mentors within the national Vocational Education and Training System.

<sup>52</sup> McGrath, *op cit.*

<sup>53</sup> Advocacy Training & Development Programme Blueprint – V4 17/09/2015, p.5.

Quality will be assured through a comprehensive quality assurance system.

ADSO strongly supports ATDP and acknowledges its potential for improvements in many directions. It will move advocacy from ‘enthusiastic amateurism’ to semi-professional practice. As a semi-professional practice, it will engage continuous learning and skill development. It will also challenge ESO executives to become involved in the selection and competency of the advocates they authorise to provide services to their members. Importantly, it will challenge the antagonisms and silo-mentality that has afflicted the ESO-DVA relationship for far too many years.

Creation of partnership relationships will start at the ATDP-DVA level. Management and course development is a joint responsibility of ESO, DVA and Defence representatives, assisted by a Registered Training Organisation. ADSO cannot emphasise more cogently the importance of developing an effective partnership.

Notwithstanding, the partners face significant challenges. To establish ATDP they must integrate their different cultures into a shared ethos, combine their various perceptions, knowledge and skills, and engage all stakeholders.

ADSO submits that failure in any of these challenges will thwart creation of an effective advocacy system. And, failure to create an effective advocacy system will leave unresolved what ADSO sees as one of the principal underlying reasons for this Inquiry – the failure of too many ESO advocates to deliver their services competently.

ADSO therefore encourages the Inquiry to recommend that equal emphasis be placed on the need for effective advocacy and on the enhancement of DVA services. Any less emphasis will address only half the problem. The need to adequately resource ESOs to undertake their new responsibilities should also be examined. Currently, most if not all of them would struggle, perhaps even find it impossible, to move to a semi-professional advocacy status without some appropriation to assist going forward.

## SUMMARY

In summary, ADSO submits that:

- 1 Suicidality is multifactorial.
- 2 Whether justified or not, veterans’ perceptions of DVA as uncaring with unfathomable claims processes must be expected to upset emotional and behavioural equilibrium.
- 3 Amongst other factors, DVA (correctly, Commission Delegates’) actual performance, competent ESO advocacy and veterans’ perceptions are equally important.
- 4 There are no official means to identify if a suicide victim is a veteran. The number of veteran suicides is most likely under-reported. Discipline, resilience training and pre- and post-deployment support probably helps to mitigate against such suicides.
- 5 *DVA Towards 2020* is a concrete response to sustained and justified official, as well as veterans’ criticism of past poor performance.
- 6 Lighthouse Project reforms will implement the strategic objectives in *DVA Towards 2020*, resolving many of the criticisms that underlie this Inquiry.
- 7 Implementation of Lighthouse reforms, and therefore resolution of veterans’ criticisms, will only be possible if Parliament passes the Lighthouse Project Appropriation Request.

- 8 DVA reforms, while necessary, are not of themselves adequate. ESOs must abandon historical animosities and silo mentality, and form a robust partnership with DVA.
- 9 The partnership must focus on each partner's *raison d'être*: the best possible care and support of all veterans and their families.
- 10 Integrated into an effective, quality assured advocacy system, veterans and their families will experience claims processing that is driven unambiguously by the beneficial intent of veterans' legislation.
- 11 The Commissions must ensure that their policy manuals are consistent with both the broad beneficial intent of veterans' legislation as well as its specific provisions.
- 12 Reservists that do not render CFTS are exposed to the same dangers and trauma as their counterparts on full-time service and should be eligible for Non-Liability Health Care.
- 13 Veterans' divorced or separated spouses must be eligible for the same life-long support from VVCS as are their children.
- 14 DVA has an incontestable duty of care to disseminate information and otherwise enhance stakeholders' awareness of the issues that affect them.
- 15 DVA also has an institutional interest and responsibility to its stakeholders to disseminate information that nurtures a healthy, but robust perception of its performance and strategic intentions.

## Finally

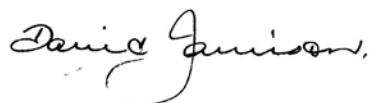
On behalf of all members of ADSO, I commend this submission to the Inquiry.

At the discretion of the members of the Senate Committee's Inquiry into '**Suicide By Veterans and Ex-Service Personnel**', I offer myself to appear personally before the Inquiry at any time and answer any direct questions about the issues contained in this Submission, or other questions the Committee deems appropriate to its inquiry deliberations.

## ACKNOWLEDGEMENT

The Alliance acknowledges with gratitude the preparation and drafting of this submission by the Chairman of the Royal Australian Armoured Corps Corporation, Mr Noel Mc Laughlin OAM, MBA, and to the tendering of information and valued input by the many other Alliance contributors contained in this submission.

Yours Sincerely



**Colonel David Jamison AM (Retd)**  
National Spokesman  
Alliance of Defence Service Organisations