

Wellbeing based legislation

Executive Summary

Social awareness has been a central focus of the Australian Government for the last 20 odd years. In 1934 the Nobel Prize winner, Simon Kuznets, declared that “*the welfare of a nation can scarcely be inferred from a measurement of national income*”¹. This wellbeing-led approach in the consideration of a Nation’s prosperity has been included in Australia’s Federal Government Department budget funding methodology as a means to improve the wellbeing of the Nation through the wellbeing of its population.

This paper, which is submitted on behalf of the Veteran Wellbeing Network Mid North Coast (VWNMNC) and the Australian Peacekeepers and Peacemakers Veterans’ Assn (APPVA), provides evidence of the importance of the measurement and improvement of the wellbeing of the nation and proposes that the new Veterans’ harmonised legislation be grounded on wellbeing principles.

Treasury Wellbeing Framework

The value in the consideration of the level of wellbeing of individuals has long been recognised in the context of Australia’s economic growth. Inclusion of wellbeing duty of care in the everyday approach of organisations in Australia should also be reflected in the development and publication of Australian legislative instruments.

The December 2013 mission statement for the Treasury Department was:

*“The Treasury’s mission is to improve the **wellbeing** of the Australian people by providing sound and timely advice to the Government, based on objective and thorough analysis of options, and by assisting Treasury ministers in the administration of their responsibilities and the implementation of government decisions.”*²

In undertaking its mission, Treasury takes a broad view of wellbeing as primarily reflecting a person’s substantive freedom to lead a life they have reason to value. Treasury has long had an understanding of welfare or wellbeing that extends beyond narrow measures of living standards, and a formal wellbeing framework since the early 2000s.³

Labor’s wellbeing budget

The Treasury’s approach to wellbeing in improving the wellbeing of the Australian people is reflected in the recent Labor Government Budget which is Australia’s first budget to benchmark its measures against their impact on the wellbeing of the Australian people.⁴

Wellbeing and DVA

The Department of Veterans’ Affairs (DVA) and the Australian Institute of Health and Welfare (AIHW) formed a strategic partnership to develop a Veteran-centred Model. The AIHW Veteran-

¹ <https://www.nobelprize.org/prizes/economic-sciences/1971/kuznets/facts/>

² [December 2013 Treasury Dept mission statement.](#)

³ [Treasury’s Wellbeing Framework | Treasury.gov.au](#)

⁴ [ABC News report](#)

centred Model⁵ is made up of seven domains across the health and welfare sector: Health, Housing, Social support, Education and skills, Employment, Income and finance, and Safety and justice (see Figure 1). The domains in the model can be monitored in the context of individual factors, influences of the community and environment, and social determinants of health and wellbeing.

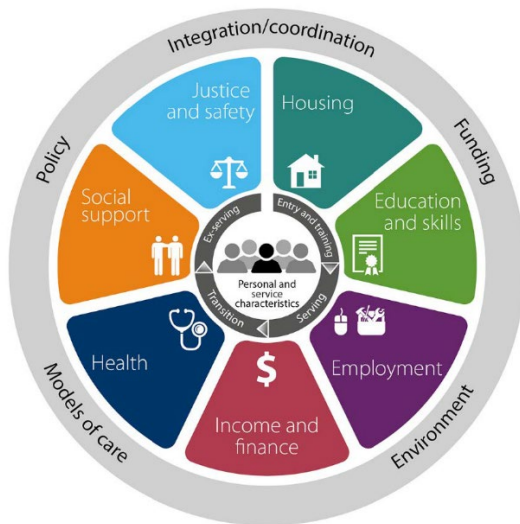


Fig 1 - AIHW Veteran-centred Model



Fig 2 – DVA adaptation model

Figure 2 shows the DVA adaptation of the AIHW Veteran-centred Model. The changes between the two Models are:

- The replacement of “Justice and safety” (AIHW Model) with “Recognition and respect” (DVA Model).
- The addition of “& connection” (DVA Model) to “Social support” (AIHW Model).

VWNMNC submits that the replacement of the Justice and Safety domain misunderstands two fundamental issues.⁶ First, the veteran and family’s absolute need for safety from violence, abuse and coercion. Second, veterans’ legislation and the organs created to administer it prescribe the support to which the veteran and family are entitled. These two elements are as critical to the veteran and family’s wellbeing as the other six domains. Focusing harmonised veterans’ legislation on wellbeing provides the rationale for re-inclusion of Justice and Safety in DVA’s wellbeing model.

DVA’s approach to wellbeing is provided in DVA’s *Veteran Mental Health and Wellbeing Strategy and National Action Plan 2020-2023*.⁷ DVA states “Veterans’ mental health and wellbeing is everyone’s business—government, peak health bodies, health and service providers, veterans, families, friends, employers, community organisations, and the ex-service organisation (ESO) community.”

This approach should also be extended to how the new harmonised legislation is written and framed.

⁵ [AIHW Veteran-centred Model](#)

⁶ VWNMNC accepts that “Recognition and Respect” reflect DVA’s responsibilities for Commemoration and the associated Portfolio Budget Statement allocations.

⁷ [Veteran Mental Health and Wellbeing Strategy and National Action Plan 2020-2023](#)

Legislation based on wellbeing

The principles upon which veterans' legislation has been framed has progressed significantly from the original War Pensions Act 1914, through the various amendments of the Australian Soldiers' Repatriation Act 1917, to its final evolution as the Veterans' Entitlements Act 1986 (VEA). Until the Safety and Rehabilitation and Compensation Act 1988 (SRCA) and especially the Military Rehabilitation and Compensation Act 2004 (MRCA), veterans' legislation had focused almost entirely on compensation. DVA's administration of SRCA, and especially MRCA, broadened its legislated responsibilities beyond the medical, dental and pharmaceutical care provided in the Veterans Entitlements Act 1986.

SRCA was based on Commonwealth employees workers compensation and introduced the concept of rehabilitation and returning the employee to a level where they could return to work in some form. MRCA, introduced in 2004, further extended the concept of rehabilitation (as the Act title states), and applied it to veterans. MRCA s38 legislates the outcome that DVA is to achieve through wellbeing support:

"The aim of rehabilitation is to maximise the potential to restore a person who has an impairment, or an incapacity for service or work, as a result of an injury or disease to at least the same physical and psychological state, and at least the same social, vocational and educational status, as he or she had before the injury or disease."

MRCA also significantly expanded the 'dependants and related persons' that have entitlements through the veteran (see s15). It is therefore consistent with the established principle for a new harmonised Act to be grounded on veteran and family (viz. dependants and related persons) wellbeing.

Wellbeing surpasses the concept of rehabilitation. Rehabilitation is the "set of interventions designed to optimize functioning and reduce disability in individuals with health conditions in interaction with their environment".⁸ Whereas, "Wellbeing is not just the absence of disease or illness. It's a complex combination of a person's physical, mental, emotional and social health factors. Wellbeing is strongly linked to happiness and life satisfaction. In short, wellbeing could be described as how you feel about yourself and your life."⁹

Rehabilitation does not consider a Veteran's socio-economic situation and other social health factors.

New harmonised Act

As Commonwealth Government funding policy is based on wellbeing and DVA is also focused on wellbeing as a principle underlying its service provision, it follows that the new harmonised legislation should also be founded on the principles of wellbeing. There are few examples of wellbeing based legislation in Australia. One of the few good examples is the Victorian Mental Health and Wellbeing Act 2022.

Purposes

The main purposes of this Act are:

- a. to reform the system for the provision of wellbeing and mental health services;
- b. to improve the administration of the system for wellbeing and mental health services; and

⁸ [World Health Organisation.](#)

⁹ [Victoria Government health channel.](#)

- c. to establish the Victorian Mental Health and Wellbeing Commission.¹⁰

The following suggestions for harmonised veterans' legislation are drawn from the Victorian act.

Objectives

The highest attainable standard of wellbeing for the Australian Veterans and their Families is the axiomatic objective of harmonised veterans' legislation. This objective would achieve the following outcomes:

- a. promotion of conditions in which people can experience wellbeing and good mental health;
- b. reduced inequities in access to, and the delivery of, wellbeing and mental health services within DVA;
- c. provision of comprehensive, compassionate, safe and high-quality wellbeing services that promote the health and wellbeing of Veterans living with physical and mental illness or distress and that:
 - i. are accessible;
 - ii. respond in a timely way to Veteran's needs and recognise that these needs may vary over time;
 - iii. are consistent with a person's treatment, care, support and recovery preferences wherever possible;
 - iv. are available early in life, early in onset and early in episode;
 - v. recognise and respond to the diverse backgrounds and needs of the people who use them;
 - vi. provide culturally safe and responsive services to Aboriginal and Torres Strait Islander people in order to support 'Healing' by strengthening connection to culture, family, community and Country;
 - vii. connect and coordinate with other support services to respond to the broad range of circumstances that influence mental health and wellbeing including alcohol and other drug support services and treatment;
 - viii. include a broad range of treatment options with the aim of providing access to the same treatment and support;
 - ix. include a broad and accessible range of voluntary treatment and support options to enable a reduction in the use of compulsory assessment and treatment;
- d. promotion of continuous improvement in the quality and safety of wellbeing services including by ensuring that the experiences of Veterans living with physical and mental illness or distress, and the people receiving treatment, their carers, families and supporters, are at the centre of changes in practices and service delivery and the design and evaluation of systems;
- e. protection and promotion of the human rights and dignity of people living with physical and mental illness by providing them with assessment and treatment in the least restrictive way possible in the circumstances;
- f. recognition of and respect for the right of people with physical and mental illness or psychological distress to speak and be heard in their own voices, from their own experiences and from within their own communities and cultures;
- g. recognition, promotion and active support of the role of families, carers and supporters in the care, support and recovery of Veterans living with physical and mental illness or distress;

¹⁰ <https://www.health.vic.gov.au/mental-health-reform/a-new-mental-health-and-wellbeing-commission-for-victoria>

- h. promotion of and support for the health and wellbeing of families, carers and supporters of Veterans living with physical and mental illness or distress;
- i. recognition of and valuing the critical role of the clinical and non-clinical mental health and wellbeing workforce, and support for and promotion of the health and wellbeing of members of that workforce;
- j. promotion of mental health and wellbeing principles.

Wellbeing and mental health principles

The harmonised veterans' legislation would be grounded on the wellbeing and mental health principles that underpin the Victorian Act as follows.

Dignity and autonomy principle

The rights, dignity and autonomy of a Veteran living with physical and mental illness or distress is to be promoted and protected and the Veteran is to be supported to exercise those rights.

Diversity of care principle

A Veteran living with physical and mental illness or distress is to be provided with access to a diverse mix of care and support services. This is to be determined, as much as possible, by the needs and preferences of the Veteran including their accessibility requirements, relationships, living situation, any experience of trauma, level of education, financial circumstances and employment status.

Least restrictive principle

Wellbeing and mental health services are to be provided to a Veteran with the least possible restriction of their rights, dignity and autonomy with the aim of promoting their recovery and full participation in community life. The views and preferences of the Veteran should be key determinants of the nature of this recovery and participation.

Supported decision making principle

Supported decision making practices are to be promoted. Veterans receiving wellbeing services are to be supported to make decisions and to be involved in decisions about their assessment, treatment and recovery. The views and preferences of the person receiving wellbeing services are to be given priority.

Family and carers principle

Families, carers and supporters (including children) of a Veteran receiving wellbeing services are to be supported in their role in decisions about the person's assessment, treatment and recovery.

Lived experience principle

The lived experience of a Veteran with physical and mental illness or distress and their carers, families and supporters is to be recognised and valued as experience that makes them valuable leaders and active partners in the wellbeing service system.

Health needs principle

The medical and other health needs of Veterans living with physical and mental illness or distress are to be identified and responded to, including any medical or health needs that are related to the use of alcohol or other drugs. In doing so, the ways in which a Veteran's physical and mental health needs may intersect should be considered.

Dignity of risk principle

A Veteran receiving wellbeing services has the right to take reasonable risks in order to achieve personal growth, self-esteem and overall quality of life. Respecting this right in providing wellbeing services involves balancing the duty of care owed to all people experiencing physical and mental illness or distress with actions to afford each person the dignity of risk.

Wellbeing of young people principle

The health, wellbeing and autonomy of children and young people receiving wellbeing services are to be promoted and supported, including by providing treatment and support in age and developmentally appropriate settings and ways. It is recognised that their lived experience makes them valuable leaders and active partners in the wellbeing service system.

Diversity principle

- a. The diverse needs and experiences of a Veteran receiving wellbeing and mental health services are to be actively considered noting that such diversity may be due to a variety of attributes including any of the following:
 - i. gender identity;
 - ii. sexual orientation;
 - iii. sex;
 - iv. ethnicity;
 - v. language;
 - vi. race;
 - vii. religion, faith or spirituality;
 - viii. class;
 - ix. socioeconomic status;
 - x. age;
 - xi. disability;
 - xii. neurodiversity;
 - xiii. culture;
 - xiv. residency status;
 - xv. geographic disadvantage.
- b. Wellbeing and mental health services are to be provided in a manner that:
 - i. is safe, sensitive and responsive to the diverse abilities, needs and experiences of the Veteran including any experience of trauma; and
 - ii. considers how those needs and experiences intersect with each other and with the Veteran's mental health.

Gender safety principle

Veterans receiving wellbeing services may have specific safety needs or concerns based on their gender. Consideration is therefore to be given to these needs and concerns and access is to be provided to services that:

- a. are safe;
- b. are responsive to any current experience of family violence and trauma or any history of family violence and trauma;
- c. recognise and respond to the ways gender dynamics may affect service delivery, treatment and recovery;
- d. recognise and respond to the ways in which gender intersects with other types of discrimination and disadvantage.

Cultural safety principle

- a. Wellbeing services are to be culturally safe and responsive to people of all racial, ethnic, faith-based and cultural backgrounds.
- b. Treatment and care is to be appropriate for, and consistent with, the cultural and spiritual beliefs and practices of a person living with physical and mental illness. Regard is to be given to the views of the Veteran's family and, to the extent that it is practicable and appropriate to do so, the views of significant members of the Veteran's community. Regard is to be given to Aboriginal and Torres Strait Islander people's unique culture and identity, including connections to family and kinship, community, Country and waters.
- c. Treatment and care for Aboriginal and Torres Strait Islander Veterans is, to the extent that it is practicable and appropriate to do so, to be decided and given having regard to the views of elders, traditional healers and Aboriginal and Torres Strait Islander wellbeing workers.

Wellbeing of dependants principle

The needs, wellbeing and safety of children, young people and other dependents of Veterans receiving wellbeing services are to be protected.

Application of wellbeing principles and family violence limitation

Wellbeing and mental health service providers to make all reasonable efforts. A wellbeing and mental health service provider must:

- a. when exercising a function to which the harmonised legislation applies, make all reasonable efforts to comply with the wellbeing principles;
- b. when making a decision under the harmonised legislation, give proper consideration to the wellbeing principles;
- c. provide safe, person-centred mental health and wellbeing services;
- d. foster continuous improvement in the quality and safety of the care and mental health and wellbeing services they provide.

A wellbeing service provider is required to prepare an annual report and must include in that annual report information about actions taken during the reporting period that relate to giving effect to one or more of the wellbeing principles.

Limit or deny information sharing if there may be a risk of family violence or other serious harm.

Mental Health and Wellbeing Commission

A Veterans' Mental Health and Wellbeing Commission would be established and would be constituted by Wellbeing Commissioner(s).

Objectives of a Veterans' Mental Health and Wellbeing Commission

The objectives of the Mental Health and Wellbeing Commission would be:

- a. to ensure the DVA is accountable for:

- i. the performance, quality and safety of the DVA wellbeing system, including the implementation of recommendations made by the Royal Commission into Veteran' into Defence and Veteran Suicide; and
 - ii. ensuring the wellbeing system supports and promotes the health and wellbeing of veterans, families, carers and supporters and the wellbeing workforce;
- b. to support and promote the leadership and participation of Veterans living with physical and mental illness in decision making about policies and programs, including those that directly affect them;
- c. to provide a complaints handling system and promote effective complaint handling by wellbeing service providers;
- d. to reduce stigma related to Veteran physical and mental illness;
- e. to promote, support and protect the rights of veterans, families, carers and supporters.

Summary

The *Victorian Mental Health and Wellbeing Act 2022* provides a framework for the adaptation of the improved MRCA to produce the new wellbeing based Legislation we need for our Veterans and their Families.

Wellbeing is not just providing wellbeing services to clients, it is also an ethos which translates into how an organisation conducts business. This ethos starts with a Governments principles, is reflected in legislation and influences Nation's direction to wellbeing.

Signed.



Accredited Veterans' Advocate

on behalf of

Veterans Wellbeing Network Mid North Coast, and

Australian Peacekeepers and Peacemakers Veterans' Assn