

Submission to the Department of Veterans' Affairs on Legislation Reforms (simplification and harmonisation) Bill 2024

References:

- A. Department of Veterans' Affairs Annual Report 22-23
- B. Actuarial Investigation into the Costs of Military Compensation – 30 June 2021

To set the scene - an acknowledgment I found within the interim report from the Royal Commission (RC) into Veteran Suicide.

“The Australian Government recognises that the veteran compensation system is overly complicated. It can be difficult to understand, stressful to navigate and complex to administer, resulting in delays, backlogs and confusion for veterans and families”.

I am recently retired (March 2024), after 49 years of service as an aircraft electrician, ELECTR, and then Business Performance Manager (APS). I attended one of the webinar presentations on the draft bill where feedback was encouraged. What follows is my feedback.

A Veteran with a health issue to be solved

1. In my experience Veterans don't submit spurious claims for compensation¹. Generally, medical symptoms arise that require immediate attention. A GP gets consulted which leads to assessing whether past service might have been a causal or contributing factor. Rationally, the workplace was a source of the highest risk. So, the only question to be answered – who pays and when. History shows what happens when 'quality of life' concerns languish and Veterans feel left behind.

2. Most Veterans realise a modest retirement. The more senior of us have had less time to amass superannuation and private medical insurance remains a necessary backstop to secure timely medical services. A safety net of sorts exists but the pockets are relatively shallow. Being able to access a timely, just, and efficient compensation is a reasonable trade-off for services provided.

So how did we end up with Statements of Principle (SOPS).

3. It is not clear to me how SOPs came into being. Were they ever consulted or trialed? Not in my experience. As a process, we find a 16-page claim form requiring words to contextualise a condition that aligns with one factor, within a diverse range of SOP provided factors, replete with medical jargon. A medical practitioner's statement is required, and then, if all goes well, a board will deliberate and deliver a decision. SOPs are a highly subjective tool. The activity of selecting an appropriate SOP is confounding and it sets up a situation where an applicant must explain a condition in barely understandable parlance. All, without any interviews to check understanding. I am sure that the process would look very different if the liability holder was responsible for funding legal means for achieving an objective outcome.


4. The claims process is not the only frustration. The information that Defence collects, all through service, provides a record of what events occurred, in which environment, for how long, and where. It is a source for managing health and wellbeing while serving. When a member retires, so too does the data. It is emblematic of why an RC needed to happen. So the one information source that a Veteran could use to explain and communicate what their service involved, disappears. Instead, we find an alien, complex, and undefendable process centred around SOPs.

¹ DVA Annual Report 22-23, Appendix D, Table D2, Prosecutions prompted by from Data Matching – none. A cursory review of the same table in the preceding 3 years of Annual Reports also shows none.

RECORD OF SERVICE/PROFILE OF RISK TO INJURY, DISEASE OR INCAPACITY

At Work			DEFENCE RECORDS					
workplace risk	Category	Potential ANNUAL Exposures	PMKeys or soon to be ERP	Medcat	Medical Records	Injuries	Safety Records	Sentinel
Catastrophic Risk	Operational	6-12 Months		Readiness		Disease		SALUS
Severe Risk	Exercises	2-4 Weeks		location		Events		WHS Reviews
High Risk	Operating	46 Weeks		type of work/Equip		Vaccinations		Safety Reviews
Moderate risk	Office	46 Weeks		training		Welfare Boards		Occ Mgmt Programs
				durations				

At Home				
Moderate risk	sports/adventure /travel	18-20 Week seasons	Compensation Claims require applicants to supply initial data	Retiring members can obtain a hardcopy of medical records
Low risk	day to day living	80-92 days		



5. **The proposed changes can hardly be called reform** – I recently submitted a claim² for a War Widow’s pension using the assistance of a Legacy pension officer. That activity was highly stressful because one wants a successful outcome. But there is no way to gauge that the smashed together inputs will achieve that outcome. Let me repeat that point. No means for an applicant to know what they have submitted will achieve the purpose of the application. To navigate the process, one needs to review and understand a minefield of Acts to determine eligibility³. Next, one needs to ascertain which version of an SOP to use, and then potentially match four parts of information for a chosen condition - factors, relationship to service, list of drugs, and relationship to other SOPs. Next, one needs a medical practitioner's statement of support for the claim. The Legacy officer finally advises that experience suggests the right elements exist in the submission. How is any of this just or timely? How could it not be daunting to a layman Widow?

6. What happens when a practitioner's input inadvertently conflicts with an applicant’s selected factor from an SOP? So, on the back of four weeks of concentrated effort to pull the application together, the clock now stands at 75 days without a response from DVA. The pensions officer recently initiated a requested first check-in, in mid-Apr 2024. Only to find that a medical practitioner’s report is required to further progress the application. So, more work for the applicant. A process or a punishment for seeking support following a loss?

7. So exactly how is this as a process not complicated, confusing, and stressful? It creates delays and backlog. Here are a couple of example clauses to impart a sense of attempting to match factors within an SOP;

Factor appreciation

- a. What follows are two random factors for sensorineural hearing loss.
 - i. being exposed to a sound pressure level at the tympanic membrane of at least 85 dB(A) as an 8-hour time-weighted average (TWA) with a 3-dB exchange rate for a cumulative period of at least one year, before the clinical onset of sensorineural hearing loss;

Note: *dB(A)* and *time-weighted average (TWA) with a 3-dB exchange rate* are defined in the Schedule 1 - Dictionary.

² This claim is on the back of my father (93yrs) passing in June 23, where my mother has been the primary carer for more than two decades.

³ The DVA Acts that look back at what has been done and not at what will be done in the future. How do agile operations and long-range missiles, as emerging capabilities, fit the Legislation? WW1/WW2 – involve an aging minority yet consume pages of Legislation.

- ii. taking a cumulative total of at least 40 grams of aspirin, or having acute salicylate toxicity, within the 30 days before the clinical onset of sensorineural hearing loss;
- b. So seriously, how does a layman interpret the onset of what is generally insidious hearing loss, and at what dB level? The table of TWAs additionally complicates by providing a range of different dB levels. Do these need to be measured or assumed? What evidence would satisfy a positive decision from any applicable factor? More questions than answers. One needs a research paper to cogently submit a claim.

Hanging on to traditional settings

8. It has always been difficult to rationalise how it was ever reasonable for Defence to divide its membership into those vested with entitlements and others not. Everyone signs the same contract for their particular contribution. We train as we are supposed to fight. Yet we find the arbitrariness of postings dictating who becomes entitled. I guess demeaning one group and entitling another, was considered reasonable at some time. All the same, a just process would find outcomes based on need. Reform in this area would see the removal of copious pages from the legislation.

Case Studies

9. I mentioned earlier that I would cover two examples of claims that have previously been rejected. These examples are provided to show why I believe the present system is unfit for purpose. The two case studies are back pain (osteoarthritis) and hearing loss.

- a. **Back pain** – the condition is exacerbated by cold weather but generally involves tolerable back pain following maintaining a still position for an extended period (sitting or sleeping). Sitting is manageable by simply moving from time to time. However routine mattress changes are required to moderate morning pain following sleep. As a mattress softens over time it needs replacing to restore a semblance of balance. My initial claim was simplistically rejected as being due to expected age deterioration.
- i. Look at any concreter and the situation with back wear and tear requires no explanation. Not so for an aircraft electrician.
 - 1. On the back of more than a decade of repetitive physiologically challenging tasks, that involve a diverse range of torsional and lifting activities, that are uniquely workplace and trade related. These tasks include:
 - a. Single-handedly lifting 20kg alternators, waist-high, under an aircraft, to allow a supporting member to align the alternator spline shaft with an engine drive shaft, to engage and then physically slide the alternator into place and secure.
 - b. Working upside down, within confined spaces of aircraft, that require repetitive twisting and upper body adjustments against gravity, to control tools and lighting, for completing component removal and installation tasks.
 - c. Inserting and removing, friction fitted, aircraft power plugs, generally at shoulder height, that require extensive wriggling to insert and remove.
 - d. Weekly tidying of ground support equipment (generator) cable trays by first lifting out the heavy AC and DC cables, and then lifting and folding them back into the tray, once the trays have been cleaned.

- e. Moving a range of heavy work stands, in tight space constraints - without causing damage, near aircraft, which requires pivoting, and incremental side and forward movements, in preparation for various maintenance activities.
 - f. Removing and installing bulky, and often heavy, black boxes, and aircraft batteries, at shoulder height, into aircraft fuselage cavities.
 - g. Mechanically jacking an aircraft which involves continuous pumping actions in concert with frequent turning adjustments to resecure jack safety locking rings.
 - h. Maintaining a range of batteries within a battery room, which requires, constant lifting from a trolley onto a bench, electrolyte replacement - that upends a battery over a controlled collection device, enduring extended forward weight and emptying motions to release the electrolyte.
- b. **Hearing loss** – the condition involves a loss of hearing across the full range of upper frequencies, such that understanding conversation is near impossible, in public forums where louder background noise exists, and in rooms where hard surfaces exist. My initial claim was simplistically rejected as being due to expected age deterioration.
- i. On the back of more than a decade working around Mirage operating aircraft engines, Orion Auxiliary Power Unit (APUs) and propellor engines, and Classic Hornet operating aircraft engines. Working on a wide range of operating support equipment operating engines.

10. By forcing decisions to be made based on a medico-legal construct overlooks why a condition exists. Everyone will have different symptoms, which when taken in conjunction with strengths and weaknesses, are being compared to standards. Standards with overly precise margins and definitions. In an environment where questionable skills and experience are also likely, pulling together SOP versions, due to Defence pay constraints. How can the results of comparative analysis **not** be arbitrary and unjust?

Is there a better way?

11. Defence already relies on the Australian Government Actuary (AGA) to report on the actuarial state of military claims for management/governance purposes. Processes already exist for transferring data to a third party to generate the required analysis and reporting.

Benefits of using actuarial inputs

12. An actuarial approach would change the basis of assessment. From an isolated esoteric standard coupled with subjective analysis to an accurate appreciation of what has occurred in workplaces based on trends of the claims being raised. Some other benefits would include:

- a. Claims and decision making simplified and process times truncated by eliminating human factors and process variation.
- b. Experts claim early treatment reduces the severity of conditions and lowers costs. The average turnaround time for SOPs stands at 140 days. The process itself is anathema to early treatment. Actuarial input would support faster decisions and earlier treatment.
- c. AGA claims delays and backlogs add percentage points of inflation to the process. Actuarial analyses have the potential to reduce compensation costs.

13. DVA releases annual reports which include the 15 most frequently used SOPs. These reports could have been used to inform line managers on which risk controls might need bolstering to reduce claims. Additionally, the top few repeating conditions could have been converted into presumed acceptance of liability and reduced decision-making overheads.

One last word on reform

14. Unknown levels of injury, longer-term disease, and excess deaths are constantly being reported in peer-reviewed papers. Defence might want to consider getting in front of the potential health fallout. Especially, on the back of mandating vaccination. An actuarial approach would accurately track both in-service and post-transition health trends to achieve such an outcome.

One Last Word

15. I will be re-submitting claims for Back and Hearing loss. It would be terrific to see some reform outcomes, sooner than later, to remove analysis subjectivity. Perhaps some strategic presumed liability acceptances could be attempted? Back and hearing appear at positions 1 and 2 of the most claimed conditions, for both VEA and DRCA, for three of the past years.

Any consideration on any of the above is appreciated.