

[REDACTED]

10 April 2024

The Hon Matt Keogh MP
The Minister for Veterans' Affairs
Box 9998 GPO
BRISBANE QLD 4001

Email: legislation.reform@dva.gov.au

Dear Minister

RE: SUBMISSION INTO PROPOSED CHANGES TO VETERANS'
COMPENSATION REHABILITATION LEGISLATION

I thank you for the opportunity to make this submission.

I do so principally to assist a fellow veteran with whom I served in [REDACTED] [REDACTED] The Royal Australian Regiment on its Second Tour of duty in South Vietnam during 1970-71. He [REDACTED] was a section machine gunner. The 'gun group' of machine gunner, number two and section 2ic arguably being, for the most part, the primary enemy target of any section. He consents to me making this submission on his behalf and has authorised me to release his personal and service details to you, if required. I have also been the subject of adverse conduct from DVA (see Post Script) and submit the PS examples as general evidence of such conduct.

The PS examples involve conduct both bureaucratic and political. There appears to have been no consequences for those who have offended. However, the veteran has, consequently and inevitably, suffered some injurious affectation. It is long past time that this unnecessary suffering should now be acknowledged and rectified.

[REDACTED] left school at [REDACTED] He has 'fallen through the legislative cracks' in the Veterans' Entitlement Act 1986 (as amended); with no resolution apparently possible since his withdrawn appeal [REDACTED] [REDACTED] to the Veterans' Review Board in 2015. He has not worked since lodging the last application to DVA [REDACTED] His psychiatric and occupational health reports to the DVA, when seeking a pension increase and on his appeal, confirming he left work due to his Vietnam service. For some reason, DVA appears to have taken no, or little, notice of those professional opinions. DVA has, however, accepted his PTSD diagnosis.

[REDACTED] admits to me, quite openly, that he was "confused and did not understand what was happening or going on" at all relevant times. He was totally reliant upon the several advocates/pensions officers he had requested assistance from. Regrettably, those advocates/pensions officers appear to have failed him abysmally.

[REDACTED]

He tells me his appeal to the Veterans' Review Board was a disaster. The Board requested that he and his advocate/pension officer retire to discuss whether he might like to withdraw his claim. It seems the Board had given some indication to his advocate/pension officer that his appeal was unlikely (for some technical or other reason) to succeed. Subsequently his appeal was withdrawn and that, as they say, 'was the end of the matter'. His advocate/PO did not contact him again. He does not recall receiving anything, although the VRB would have written to him concerning his appeal. He says he was, at that time, very confused, extremely angry, upset and frustrated. Subsequently he didn't care about anything and withdrew into himself. He was told by an advocate he had casually met in [REDACTED] a few years later (who apparently could access his DVA file) that 'there was nothing he (the advocate) could do about it (his DVA position)'. [REDACTED] resigned himself to the situation and tells me he felt 'demeaned, angry, different from other veterans and let down by the system'. He resolved to have nothing further to do with the DVA.

I called [REDACTED] about 6 years ago to see how he was travelling. When I asked him about his DVA pension situation he said:

*'Forget it! There are TPI's out there from the Navy who never got off the bloody boat. Never got onto land! How can they get a TPI when a Grunt (Infantry soldier) is out there at the sharp-end doing the hard yakka and taking all the risks? It gives me the shits. I feel like it is me that has done something wrong. Its f*****g demeaning, mate. I'm not having a go at those Navy guys, but how can the real danger in the bush be not taken into account? How can a Navy bloke get a TPI for what he was doing with safety and a front line Grunt in danger can't? X (one of his advocates) told me someone had crossed the wrong f*****g box on my application. Now I'm bugged! They can all go and get f****d. The system stinks! The pollies and the DVA don't give a f**k about us!'*

I have had regular contact with [REDACTED] over the last several years. He accepts I am willing [REDACTED] to assist him to attempt to rectify his position. Clearly, his future entitlement cannot now, under existing legislation, be fully considered and finally determined as there is no savings provision, or other means outside the appeal process to redress these situations, in the Act. He is 'in limbo' (as it were).

[REDACTED] blames himself and has great difficulty accepting what has happened. He was and still is almost totally ignorant of the DVA system and what was required of him at the time. This continues to adversely and exponentially affect his mental condition. His wife lives with this constant reminder that her husband, in his eyes, is 'different' from his fellow veterans and a 'failure'; that he should have an entitlement which he is now, by virtue of his age, prevented from receiving. This situation cannot be allowed to remain as it is. His mental state is deteriorating and he becomes very volatile when the subject is raised. His wife constantly worries for him when it is.



I come to the essence of the submissions:

1. That the legislation be amended to include a 'savings' provision to enable veterans in [REDACTED] position to have their matters re-opened and heard to a final conclusion, whilst allowing any 'errors or omissions' not of their own doing to be corrected. To accept, if you like, that age should no longer be a disqualifying factor to any claim.
2. In the alternative, to amend the legislation to give the Minister, or an appropriate independent delegate, power to review any particular veteran's similar situation. Any review to be based on the fundamental principles of Equity, with emphasis on the principles that it *'treats as done that which ought to be done'* and *'will not suffer a wrong to be done without a right'*. That the Minister, or delegates, have the power to amend revoke or substitute any finding under review. That any review has a safeguard provision for an appeal.
3. That the apparent 'one size fits all' template policy for determining compensation applications from any branch of the ADF be revoked. Whilst PTSD can come from any adverse experience, it is important for the veterans to know that the DVA will treat veterans with 'front line combat service' in any branch of the ADF as a very sensitive matter for them. DVA should give due and proper consideration to that 'combat' service over and above that of the active service of other ADF members who have not had, or been exposed to, any 'front line combat service'. That is, what has actually happened in the physical enemy contact, whether that is immediate close physical 'contact' or not an immediate physical contact but a consequential one. [REDACTED]
[REDACTED]
4. That the 'red tape' surrounding compensation applications be reviewed and simplified. Presumptions should be made in favour of a veteran's claim, if supported by medical or other evidence, rather than an adversary approach; which seems to be DVA's general reaction to reject everything rather than properly consider the content and future effect of its decision.

To my mind 4 (above) is the fundamental reason the government, veterans and the community are in the situation they now find themselves in. Regrettably!

As for veterans remuneration, benefits and financial compensation it would be nice to see equality of status with politicians. Politicians do not give a 'blank cheque to the community for everything up to and including their respective lives' as veterans have done. But, I guess, that equality/importance of service to the community will never be really recognised (by the politicians) or, indeed, happen! *C'est la vie.*

[REDACTED]

There has been gross waste under the compensation schemes for veterans and the manner in which claims are made and determined. Waste which, if hauled in, could be more profitably and beneficially directed. Unnecessary litigation costs, excess demands by DVA for "evidence" to contest claims, duplication and delay, amongst other things. All must be reviewed. There is little doubt that waste, delay and duplication have been substantial contributors to the position veterans now often find, and have found, themselves in and the consequent and often very serious and unfortunate outcomes.

I hope these submissions and those of the Royal Commissioner are accepted. It is abundantly clear that action must be now taken to prevent further suicides within the veteran community. It is not before time that this correction should occur.

Yours faithfully

[Redacted signature]

[Redacted name]

[Redacted address]

PS

Examples of questionable conduct unnecessarily and adversely affecting veterans:

1. I hold written evidence from former DVA Minister Alan Griffin that he *inter alia* 'can assure you that the principles of fairness and nature justice' (Equity) do apply to the administration of entitlements under the Veterans' Entitlement Act 1986 (as amended). When provided with an extract from a letter to me from DVA advising that 'the Federal Court has consistently..(held) that fairness and natural justice do not apply to the administration of veterans' claims, Mr Griffin advised, *inter alia*, 'the principles of equity do not apply to veterans claims....(as) the Veterans' Entitlement Act is a beneficial act' of parliament. Fourteen subsequent letters to Minister Griffin (over fourteen months) requesting further details still to this day remain unanswered. Was this incompetent/convenient avoidance or ignorance by the Minister or just plain politics? When raised in my [Redacted], that Minister apparently advised he did not respond to those subsequent letters as he 'thought he had answered' my inquiry.

Two issues then arise:

- a. Do Ministers of the Crown and/or the bureaucrats actually know, at any given time, what the law is and how it must be applied?
- b. If a bureaucrat makes an unsupported assertion that a Court or Tribunal has made any finding or direction, is it not incumbent on that bureaucrat to provide proof by way of a case citation/or decision copy to support his/her assertion?

My experience tells me 'No'. If a false assertion is so made, knowingly or innocently, what remedy exists (eg for a veteran) to correct any wrongful assertion so made? I think 'None'. There must be some consequence for such conduct and a suitable correction made for any veteran's adverse effect.

2. On one occasion a DVA 'decision maker', during a telephone call to me, informed me he had 'duty' to the 'public' purse. The context in which this statement was made clearly indicated that the public purse was paramount over the interests of the veteran. I submit not a statement conducive to mental wellbeing even if following government policy and certainly inconsistent with public political assertions to the contrary. For example, "the service of our veterans is of paramount importance to us" regularly emanating from both sides of the political spectrum.

3. In my case a full AAT hearing was necessary due partly to a DVA psychiatrist I was referred by DVA alleging in his report that I had [REDACTED] who was the cause of my problems. Not my Vietnam service. That statement was either a complete fabrication or, more likely, an unchecked and unedited cut and paste from another patient's report not related to me by that psychiatrist. Before the hearing the DVA made absolutely no attempt, so far as I am aware, to determine the efficacy of the report before submitting it to the hearing. I was excused by Madame President from further attendance from the hearing after I interjected to object about that psychiatrist's error/negligence. My case concluded some time later. About 3 days later (and not the usual 3 months) my advocate rang me to advise my appeal had been upheld. How much these incompetence's, errors and omissions by DVA have cost, particularly, the veteran and the taxpayer I do not know! I shudder to think. Millions, if not billions, I suspect.

4. Being advised during a telephone call from an apparently senior DVA assessor that he was 'satisfied' that my TTI status was to be elevated to TPI. That he would contact me in approximately two weeks confirming this. That about six weeks later I received a letter from this officer downgrading my TTI to Intermediate Rate and demanding a refund of some \$11,000.00 in overpayments. I successfully appealed that officer's decision. I have his name, if required and if he is still employed by DVA. That assessor did not even have the intestinal fortitude to again telephone me about the reversal of his original statement. My wife was horrified and unbelieving! It is not the right of any DVA officer to cause adverse affectation to innocent wives and family of veterans, directly or indirectly, and in this questionable manner.

