

ADVOCACY, ENTITLEMENTS AND SUPPORT (AES) SPOT¹

Introduction

In my Spring 2018 article, I outlined the submission to the Productivity Commission (PC) made by the Alliance of Defence Service Organisations (ADSO). You will recall that Air Force Association is a foundation member of ADSO, that we had a pivotal role in drafting the PC Submission and that the ADSO was about to lodge its second of two submissions to the Scoping Study as Wings went to press. This article overviews the latter submission. Again, AFA played the key role in both submissions. They are Nos 1.1 and 1.2, and are accessed at:

<https://www.dva.gov.au/consultation-and-grants/reviews/veterans-advocacy-and-support-services-scoping-study/submissions>

Background

As had the Australian National Audit Office (ANAO) Report on the *Efficiency of Veterans Service Delivery by the Department of Veterans' Affairs* and Productivity Commission *Inquiry into Compensation and Rehabilitation for Veterans*, the *Veterans' Advocacy and Support Services Scoping Study* was a recommendation of the Report by the Senate Foreign Affairs, Defence and Trade References Committee Inquiry into *The Constant Battle: Suicide by Veterans*.

You will recall that the Spring article related ADSO's profound concern at the thrust of the PC Inquiry Issues Paper which appeared to presume the further outsourcing of DVA services to the private sector and/or other government agencies. We noted that this was the express recommendation of a Department of Finance *Sustainability and Efficiency* Report into DVA. Our submission to the PC observed that further outsourcing would reduce DVA to a rump, facilitating its disestablishment. This would leave veterans and their families without a dedicated agency to administer their legislated entitlements.

Scoping Study Framework of Considerations

To generate inputs, the Study Lead, Mr Robert Cornall AO, released a Discussion Paper. See:

https://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/atdp/advocacy_study_discussion_paper.pdf

The Study proposed to consider the following factors, which it had identified in a Discussion Paper, as affecting the delivery of advocacy and support services:

- What are the emerging needs of younger veterans, female veterans and veterans' families?
- How can transition from the Defence Force, particularly in the case of early medical or administrative termination of service, be managed more effectively?
- How can the increasing emphasis on rehabilitation and assistance to get a job in the civilian workforce be best supported by advocates and service providers?
- Why is the attraction of younger veterans to replace the declining number of ageing volunteer advocates a challenge for ex-service organisations?
- Despite the complexity of the legislation governing, and wide range of agencies and organisations engaged, how can veterans' entitlements and services be best delivered into the future?
- How can advocate training and accreditation cope best with this complexity and provide flexible options for maintaining the number and location of trained or professional advocates to provide a sustainable, consistent and reliable advocacy service that meet demand?

¹ Article prepared by R.N. (Dick) Kelloway, National VP, ATDP-accredited Level 3 Compensation and Level 2 Wellbeing Advocate.

ADSO Submission

AFA took the approach that the force of its concerns would be more compelling to the Scoping Study if they were amalgamated into a submission by ADSO with a membership of 17 ESOs and close working relationships with Legacy and the RSL. We therefore became a key member of the submission drafting panel. The views of other Members moderated and were combined with ours. Legacy fully supported the we took. Regrettably, a change of National President within RSL thwarted its consideration of the draft submission.

The ADSO submission is in two parts. Part A contextualises the Submission, addressing the Discussion Paper's framework and ADSO policy considerations. Part B consolidates ADSO Members' responses to the Questionnaire circulated by the Scoping Study. The Executive Summary from the ADSO submission follows:

"This submission to the Scoping Study contends that the unique nature of military service has, over a 100-year history, been respected by the Nation and successive Governments. The depth of this respect has manifested in acceptance by the Nation and successive Governments as justification for entitlements that are '*unusually favourably to claimants, as compared with claims for other Government benefits*' (Heerey J 'Repatriation Legislation and Litigation 1920 to 1994). ADSO is deeply concerned that the reviews and inquiries resulting from *The Constant Battle* are the end-phase of a 40-year perception by successive governments that DVA has a finite life.

"Now, however, the imperatives driving government are far less benign than they were in the post-WWI, WWII, and Vietnam eras. The presumptions that shape many of the questions posed by the Productivity Commission's Issue Paper are applied economic rationalism. This should not surprise. The DoF Contestability Programme Guidelines make clear what is happening more widely. Small departments are being combined into mega-departments. Government services that have long-provided a social safety-net are now outsourced to the marketplace. The needs of the less fortunate or less able are disregarded callously by Governments in pursuit of neo-liberal dogma.

"ADSO cannot ignore the recommendation from DoF's *Functionality and Efficiency Review* of DVA that the ANAO Efficiency Review of DVA has quoted. Nor can it ignore the apparent enthusiasm with which DoF states in its FY2016-17 Annual Report that its FERs in that year saved \$2.7b. If DVA's functions are to be outsourced or transferred to other agencies as DoF recommends, ADSO reminds the Government of the risks it took and the lessons that are to be learned from the Home Insulation, NBN and Murray-Darling water buyback initiatives. The roll-out of NDIS already shows signs of inadequate analysis and poor implementation. The multi-billion costs of these failed programs indict political dogma and leadership.

"Through the current reviews and inquiries into DVA, the sights are now levelled on another sub-set of society: the Australian youth that Governments have sent into harm's way purportedly in defence of the Nation. The further outsourcing and transfer of DVA functions, the creation of a Bureau of Veterans' Advocacy staffed by legally trained public servants, and amendment of legislation to allow legal practitioners funded by Legal Aid to practice at the VRB signify the progressive stripping of DVA's Budget appropriation. With few functions and a grossly reduced budget, the rationale for an independent agency dedicated to veterans, their families and dependents no longer exists. Those that have put their life on the line for the Nation and the families that have supported them will end up with no more rights and entitlements than the most disadvantaged and most disabled in Australian society.

"ADSO contends that against this background VCR's structure, systems, processes and culture change activities have changed DVA fundamentally from the critical assessment in the APSC 2013 Capability Review. The highly participatory methodology adopted by Project Lighthouse has set the bar for all future consultative program design. The MyService portal, data mining and back-end processing are changing the claims system fundamentally, yet it is only now emerging from beta trials. In parallel, the Rolfe Review

has led to an ASQA-accredited Course in Military Advocacy. ATDP has accredited 646 advocates with another 180 awaiting RPL and 120 committed candidates undertaking a learning pathway. All four levels of Compensation training will have been rolled out by 30 June 2019, as will the third level of Wellbeing training. These achievements are the product of a handful of volunteers, a training contractor and a small business unit in DVA.

“To ADSO’s dismay, however, these advances do not mean that human and systemic failings are not continuing to occur within DVA. Without in any way disparaging the inexcusable individual human cost of these failings, in comparison, the budgetary cost of the succession of failed Government initiatives above is egregious. Regrettably, DVA’s failings are very public and grist for the mill for those with an inimical agenda or who seek outcomes but are unaware of the strategic ramifications of their pressure. Equally regrettable, the complaints on which the Senate Inquiry’s findings were based related to events that, for the most part, had occurred before VCR and ATDP began to take effect. In other words, the premises on which the current reviews and inquiries are being conducted are fallacious. ADSO contends that this presents as a major challenge for the Scoping Study. This deduction also frames ADSO’s responses to Questionnaire No 1.

“In response to the Scoping Study ToR and Discussion Paper, ADSO contends as follows:

Wellbeing and Compensation Advocacy Services.

“The 2010 Review of DVA-funded ESO Services and the Rolfe Review found that advocacy services were not nationally uniform nor always of high quality. The Course in Military Advocacy built initially on TIP training but through consultations with (especially) younger veterans has significantly broadened and deepened its learnings and skills development.

Regrettably, some very experienced and competent advocates will not migrate into accredited advocacy. Their loss will be felt keenly as the transition towards a profession of advocacy evolves. Analysis indicates that the number of advocates needed to meet current projections of DVA clients will decline from 1,600 to around 1,000 by 2028.

To meet the disparity between the location of accredited advocates and an inevitably widely-dispersed veteran community, ADSO proposes that the Wellbeing Support Officer role be formalised, offered nationally consistent training by ATDP and linked into CoP as the ‘eyes and ears’ of the ESO/VSC community. WSOs would be recruited in locations proximate to clusters of veterans and provide local ‘walk beside’ support in electronic contact with (possibly) distant advocates. They would form a third tier of service delivery and be encouraged to see their role as a pathway into accredited advocacy.

Current Challenges and Barriers. Research shows that there is an extraordinary volume of comprehensive information available on DVA, Defence, ENGAGE, CSC, VVCS and ESO/VSC websites. Knowing what is available is, however, a major ‘barrier’. ADSO proposes creation of an index of URLs posted in key locations with links to all other sub-indexes. Persistence and (especially mental) ill-health are the major ‘challenges’ to accessing entitlements and services. Barriers and challenges are interactive. The presence of one exacerbates the effect of the other.

Veteran’s Advocacy Needs.

- (i) Despite the complaints reported in *The Constant Battle*, most veterans in the 60+ age category have been well-served by their advocacy colleagues. Mates **have** helped Mates.
- (ii) The challenge now is to ensure that the cohorts expressing robust disaffection with advocacy services and training have their needs met. To some extent, they are an in-between cohort. The younger cohort have actively sought to resolve their needs, some by undertaking advocacy training and development. The remainder forming organisations or groups that care for their mates’ specific needs.

- (iii) Through workshopping, advocacy training and development is now incorporating the younger groups needs into the Course in Military Advocacy. The Course therefore covers the veteran community's needs from 'cradle to grave'. Younger veterans' engagement provides foundations on which, in future, they can adapt and redirect the Course as required.
- (iv) This leaves the 'in-between' cohort that has been the most condemnatory of DVA and ATDP training. ADSO is seeking to engage with this group.

Models for Professional Advocacy.

ADSO contends that the Canadian Bureau of Pension Advocates (like its counterparts elsewhere) is the product of that nation's unique culture, imperatives and experiences. ADSO has proposed incorporation of an Institute of Professional Military Advocates that is built on Australia's military and veterans' traditions and legislative provisions.

Currently, around 40-50 advocates of the 1,600 are paid. ADSO accepts, however, that some movement towards a higher proportion of paid advocates is inevitable. Be that as it may, the tradition of Mates helping Mates is as strong amongst younger veterans as it is for the current cohort of Vietnam-era advocates.

ADSO submits that the future will involve an amalgam of volunteer and paid advocates

Sustainability, Consistency and Reliability.

- (i) ADSO contends that the advent of ATDP has set in place the foundations for national consistency as advocated in the Rolfe Review.
- (ii) The increasing number of accredited advocates are supported by the experienced and competent TIP-trained advocates that either remain in practice at Levels 3 or 4 until December 2021. Together these cohorts will ensure that service delivery is reliable. If their ESO/VSC can encourage the latter cohort to stay on as mentors, the prospects of reliability will be further enhanced.
- (iii) Sustainability has a numerical limb that is, at this stage, perceived widely to be the most problematic. ADSO contends that there are, however, pools of potential candidates that have to date not been tapped. These include veterans that are on INCAP/PI, and spouses of veterans. Clearly, the nature and level of incapacity of the former and the freedom of the latter to find time away from family commitments or work are relevant considerations.
- (iv) ADSO has suggested a concerted recruitment drive and the paying of some advocates to access the latent pools.

Efficiency and Effectiveness.

- (i) ADSO agrees with the wider view that transition is a particular need that collaboratively by Defence, DVA and the ESO/VSC community must attend.
- (ii) The introduction of legally trained public servants or legally qualified professionals, however, has the potential to be so disruptive that it would incur inefficiencies.
- (iii) ADSO is frankly concerned that the decision to employ legal professionals would be destructive of voluntary advocacy. Just as the introduction of ATDP has led to the loss of valued volunteers from advocacy, so too would lawyers would lead to further losses.
- (iv) ADSO cautions that the ramifications of the proposal be weighed very carefully. At the moment, the cost to Government of veterans' advocacy is the \$4m allocation to BEST. Contrary to the Contestability Programme's cost-saving objective, the Government may find itself with another ill-considered policy initiative that ends up costing many times the current budgetary outlay. ADSO estimates the annual expense would be around \$120m.

Level of Service.

- (i) ADSO contends that, as is befitting for those who have been prepared to lay down their life for their fellow citizens, the level of service delivered by DVA is markedly superior to that accessed by society's most disadvantaged and most disabled.
- (ii) To contemplate transfer of services to a mega-department would therefore render ADF members and veterans' commitment and their families' steadfast support as being of no value to society. To create this impression – let alone reality - would place Australia's national security in jeopardy.
- (iii) Again, ADSO cautions Government to consider thoroughly the full range of ramifications of policy driven by dogma.

Interest-focused Services.

- (i) ESOs' role has long been to bring the interests of its veteran members to the attention of Government.
- (ii) ADSO notes that its efforts are complemented well by the various forums in DVA's National Consultation Framework and by the workshops that have been conducted by Project Lighthouse and ATDP. Indeed, the participatory research methodology adopted by the workshops is the 'gold standard'.
- (iii) ADSO proposes that the interests of veteran groups will be enhanced if the findings of the various Forums and workshops are integrated into DVA's annual planning cycle. This proposal is consistent with Professor Peter Shergold's recommendations in many reports for and to governments.

Appeals.

ADSO is trenchantly opposed to amending VEA 1986 to allow legal practitioners to represent veterans at the VRB. ADSO contends that it would make the VRB:

- (i) a full-cost jurisdiction;
- (ii) incur unacceptable financial risk for veterans;
- (iii) divert the focus from the merits of facts and contentions to points of law;
- (iv) deny veterans the Board's full attention to them and their circumstances; traumatise those already traumatised; and undermine the veteran community's trust in the fairness of the appeal pathway.

Governance and Quality.

ADSO draws the Study's attention to the governance and QA features of its proposed Institute of Professional Military Advocates. These include:

- (i) incorporation with a professional Board;
- (ii) adoption of a social enterprise model, with social benefit and economic sustainability objectives;
- (iii) joint ESO-DVA funding and public donations;
- (iv) responsibility for training, standards, service delivery and quality assurance;
- (v) independent oversight by ASQA; and
- (vi) adoption of a 'market stewardship' approach to ensure independent monitoring of service delivery.

Stakeholders' Roles and Responsibilities.

- (i) ADSO submits that one of the consequences of VCR has been to strengthen the partnership between its 18 Members and DVA. Amendment of the ESORT agenda to facilitate discussion of strategic concern to ESOs has further strengthened the ADSO-DVA partnership.
- (ii) Completion of ESORT's shift of focus to the strategic issues that are relevant to the national leadership will cement collaboration.
- (iii) Robust, but respectful engagement, focused on issues appropriate to the Forum's level can only have benefits for service delivery in general and to advocacy services in particular.

Implementation and Costings.

ADSO would welcome an opportunity to engage with the Study in developing an implementation plan and costings for the models it considers.”

Stop Press

At the time of writing on the final day of the INVICTUS Games, the Prime Minister and Minister for Veterans' Affairs announced that the Government *'will develop'* a Veterans' Covenant and issue a Veterans' Card and Veterans' lapel pin. The Media Release can be accessed at: <https://www.medianet.com.au/releases/169227/>

In parallel, the Commonwealth Minister and State/Territory Ministers for Veterans Affairs released a Joint Communique following their Ministerial Round Table. The Communique can be accessed at: http://minister.dva.gov.au/media_releases/2017/nov/joint_vmm.htm

Conclusion

The Productivity Commission is committed to releasing its Draft Report for Public comment and the Scoping Study its findings to the Minister, in December 2018.

AFA has joined with ADSO to argue that, to achieve the necessary level of commitment, the Covenant must be embedded in VEA, DRCA and MRCA. In this respect, we are concerned about the Joint Statement's reference to the United Kingdom Armed Forces Covenant (see: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/49469/the_armed_forces_covenant.pdf).

We are also concerned about the focus on *'recognition and respect'*, and the Prime Ministers' proposal to write *'to businesses and communities to urge them to recognise the service of our veterans'*. This seems to be a long way short of the commitments to veterans and their families that AFA and other ADSO members are recommending. Our concerns are exacerbated by the history recounted in *'The Last Shilling'*, the DoF *Sustainability and Efficiency Review* of DVA, and the perceived thrust of the PC's Issues Paper.

As the vernacular goes: *'Much is happening in the veteran space'*. Be assured that National Council is concerned at the implications for serving and ex-RAAF members and families.

By R. N. (Dick) Kelloway