

Executive Brief: Veterans' Advocacy Reform

This Executive Brief summarises the core recommendations for reforming veterans' advocacy in Australia. It highlights the entrenched role of paid and volunteer advocates, identifies systemic risks, and proposes a regulatory framework to protect veterans' rights.

Key Issues

- Veterans are highly vulnerable clients due to injury, trauma, and dependence on entitlements.
- Advocacy is inconsistent: some advocates are well-trained, others are unregulated or poorly supervised.
- Paid advocates may charge unreasonable fees or provide poor-quality advice.
- Volunteer advocates operate under uneven training and without enforceable statutory standards.
- Complaints processes are fragmented and ineffective, leaving veterans without redress.
- Oversight remains split between DVA and ESOs, creating conflicts of interest.

Proposed Solution

1. Introduce statutory **Codes of Conduct** for both paid and volunteer advocates.
2. Establish an **Independent Veterans' Advocacy Commissioner**, embedded as a **Deputy Commissioner within the Defence and Veterans' Services Commission (DVSC)**, to provide cohesive oversight within the broader **oversight architecture** of veterans' services.
3. Require all Ex-Service Organisations providing advocacy to maintain at least one accredited **Level 4 Specialist Advocate**.
4. Mandate training in administrative law, continuing professional development, and indemnity insurance coverage.
5. Provide veterans with written advice about indemnity protections and claims processes.
6. Make it unlawful to charge fees for advocacy services unless operating under the Paid Advocates Code of Conduct.

Independent Oversight

The Deputy Commissioner (Veterans' Advocacy) should be appointed by the **Governor-General** on nomination from the **Attorney-General**, ensuring independence from both the Minister for Veterans' Affairs and Ex-Service Organisations. The Deputy Commissioner will act as the **central complaints authority**, empowered to investigate misconduct, enforce compliance with the Codes of Conduct, and impose sanctions where necessary.

Impact and Benefits

- Veterans will be protected from poor advice, exploitation, and inconsistency.
- ESOs will have internal quality control through mandatory Level 4 Specialist Advocates.
- DVA will benefit from better-prepared claims, reducing appeals, remittals, and delays.
- Treasury will benefit from long-term cost savings due to efficiency and reduced litigation.
- The veteran community will gain trust in a transparent, independent, and professional advocacy system.

Recommendations (Summary)

1. Legislate Paid and Volunteer Advocates Codes of Conduct.
2. Establish a Deputy Commissioner (Veterans' Advocacy) within the DVSC.
3. Ensure the Deputy Commissioner is appointed by the Governor-General on nomination from the Attorney-General.
4. Mandate administrative law training, CPD, and indemnity insurance.
5. Require all ESOs to maintain a Level 4 Specialist Advocate.
6. Provide a statutory self-representation pathway for veterans.
7. Empower the Deputy Commissioner to act as the complaints authority, with sanction powers.

Submission to the Senate Foreign Affairs, Defence and Trade References Committee

Inquiry: Compensation and income support for veterans (Compensation47)

Late Submission

Mr Geoffrey Shafran

Executive Summary

This submission addresses the entrenched role of paid and volunteer advocacy in the veterans' compensation and income support system. Volunteer advocacy has been central for decades but is declining in capacity, while paid advocacy has become a permanent feature. The absence of statutory professional standards places veterans at risk of exploitation, poor advice, and inconsistent outcomes.

The solution is to legislate Codes of Conduct for both pay for service and volunteer advocates. These Codes must mandate training (including administrative law), indemnity insurance, transparency, accountability, and complaints processes. Precedents exist: the Migration Agent Code of Conduct demonstrates how regulation can professionalise a sector, while volunteer frameworks such as the Advocacy Training and Development Program (ATDP) and the Veterans' Indemnity and Training Association (VITA) provide a base that can be strengthened through statutory enforcement.

Central to this reform must be the establishment of an **Independent Veterans' Advocacy Commissioner**, who would oversee training, accreditation, compliance, and complaints handling across the sector. This independent oversight ensures that standards are not controlled by the Department of Veterans' Affairs or by Ex-Service Organisations themselves, avoiding conflicts of interest and ensuring veterans' rights remain paramount.

To ensure administrative cohesion and avoid regulatory duplication, the Veterans' Advocacy Commissioner could be situated as a **Deputy Commissioner within the Defence and Veterans' Services Commission (DVSC)**. This would strengthen the broader **oversight architecture** being developed in response to the Royal Commission, ensuring advocacy regulation is integrated with systemic reform rather than siloed. The alternative is the Veterans' Advocacy Commissioner could have 2 hats in much the same way the Information Commission wears the hat of the Privacy Commissioner.

Furthermore, each Ex-Service Organisation (ESO) providing advocacy services should be required to maintain at least one accredited **Level 4 Specialist Advocate**. This role would act as a conduit to lawyers when judicial review is necessary and would provide quasi-

judicial oversight within the ESO, mentoring junior advocates and ensuring internal compliance.

Background

Veterans' advocacy in Australia has historically relied on volunteers from ex-service organisations (ESOs). Initially informal and based on camaraderie, this model worked when legislation was simple. As legislation expanded through the Veterans' Entitlements Act 1986 (VEA), the Safety, Rehabilitation and Compensation Act 1988 (SRCA, now DRCA), and the Military Rehabilitation and Compensation Act 2004 (MRCA), advocacy became increasingly complex. In 1994, the Repatriation Medical Authority (RMA) introduced Statements of Principles (SoPs), requiring interpretation of complex medical and scientific standards.

Volunteer training has been strengthened through the ATDP, and volunteers under ESOs are generally covered by VITA. But these frameworks are not statutory, participation is uneven, and compliance is unenforceable. Paid advocates operate outside this system, leaving veterans exposed to unregulated operators.

Historic Context

Exclusion of Legal Practitioners

A systemic weakness arose from the exclusion of legal practitioners from the first tier of merits review. Section 107VU of the Repatriation Act 1920 prohibited legal representation before the Repatriation Review Tribunal (RRT), a restriction carried into the Veterans' Review Board (VRB). The Administrative Review Council's 1983 Report No. 20 criticised this, recommending that claimants should have freedom to choose their representative. This created a lasting skills gap, leaving advocacy disconnected from administrative law.

Legislative Complexity

The complexity of veterans' law escalated through the introduction of multiple Acts: the VEA, SRCA/DRCA, and MRCA. This produced three overlapping compensation schemes depending on service circumstances. The introduction of the RMA's Statements of Principles (SoPs) further complicated claims, demanding a sophisticated understanding of medical-scientific criteria. These developments made informal volunteer advocacy inadequate.

Insights from the Toose Inquiry (1975)

The Toose Inquiry warned almost 50 years ago of systemic weaknesses in the Repatriation system. Toose observed that:

'No discussion appears to have taken place in 1929 as to why legal representation was not permissible... Advocates were few in number, and in some cases were poor in quality... The evidence did not suggest that lay representation had given entire satisfaction to the ex-service population.'

Toose also noted the complexity of legislation:

'There have been a number of submissions strongly critical of the fact that the legislation governing Repatriation activities is presented in four separate Acts and that the principal Act is itself a most difficult piece of legislation to interpret... There can be no doubt that the various provisions as now presented are unnecessarily complex and cumbersome and must militate against public understanding, consistent and effective interpretation and administration of the legislation.'

These concerns were never addressed. The exclusion of lawyers and the rise of complex legislation left veterans without access to professional advocacy grounded in law. A statutory Code of Conduct mandating administrative law training, under independent oversight, is now essential.

Risks of the Status Quo

- Veterans are vulnerable clients due to injury, trauma, and reliance on entitlements.
- Inconsistent quality of advocacy leads to inequitable outcomes.
- Lack of statutory accountability leaves veterans without effective redress.
- Paid advocates may charge unreasonable fees or provide misleading advice. In the veterans' community, unregulated actors are often described as 'cowboys'.
- Volunteer standards vary and are not legally enforceable.
- Oversight remains fragmented between ESOs and DVA, neither of which can be impartial regulators.
- ESOs often operate without senior-level advocates, leaving them unable to provide proper internal quality control.
- Overall trust in the support system is undermined.

Proposal: Veterans' Advocacy Codes of Conduct

Two statutory Codes of Conduct should be legislated:

1. ****Paid Advocates Code of Conduct**** – Full framework covering registration, fee transparency, administrative law training, insurance, accountability, and enforcement.
2. ****Volunteer Advocates Code of Conduct**** – A tailored framework building on ATDP and VITA, prohibiting fees, mandating CPD, and formalising complaints processes.

Both Codes must require written advice to veterans on indemnity insurance rights (e.g. VITA) and claims processes. Legislation must make it unlawful for any person to represent a veteran for a fee unless Code-compliant.

Oversight of both Codes must be entrusted to an Independent Veterans' Advocacy Commissioner. Rather than creating a standalone office, this role could be embedded as a ****Deputy Commissioner within the Defence and Veterans' Services Commission (DVSC)****, strengthening the ****oversight architecture**** across veterans' services.

In addition, all ESOs that provide advocacy services should be required to maintain at least one accredited ****Level 4 Specialist Advocate****. This individual would serve as the ESO's senior advocate, providing internal quasi-judicial oversight and functioning as the bridge to legal practitioners for cases that require judicial review. This ensures internal accountability, consistent mentoring, and reliable escalation of complex matters.

Comparison of Paid and Volunteer Advocates Codes of Conduct (Draft)

This table compares the two Codes side by side.

Topic	Paid Advocates Code	Volunteer Advocates Code
Purpose	Professional standards for paid advocates; compliance mandatory.	Professional standards for ESO volunteers; compliance mandatory.
Application	Covers all who charge fees; unlawful unless compliant.	Covers all ESO-sponsored volunteers; no fees allowed.
Registration	Registration with statutory authority; fit & proper test.	Sponsored by ESO; ATDP accreditation.
Training	Mandatory training incl. admin law + CPD.	ATDP accreditation + CPD incl. admin law.
Standards	Honesty, diligence, competence, avoid conflicts.	Honesty, diligence, competence, avoid conflicts.
Obligations	Confidentiality, accurate advice, written fee agreements.	Confidentiality, accurate advice, no fees.
Fees	Reasonable, transparent, written agreements; no contingency fees.	Strictly prohibited.
Insurance	Professional indemnity insurance; veterans advised of claims.	VITA or equivalent cover; veterans advised of claims.
Recordkeeping	Maintain records 7 years; separate client account.	Maintain records 7 years.
Complaints	Independent mechanism; sanctions: fines, retraining, suspension, deregistration, prosecution.	Independent mechanism; sanctions: retraining, suspension, removal.
Colleagues	Professionalism, courtesy, mentoring.	Professionalism, courtesy, mentoring within ESO.
Enforcement	Unlawful unless compliant; breaches may trigger penalties.	Unlawful unless compliant; ESOs barred from non-compliant use.

Oversight of Training, Accreditation, and Complaints

The establishment of the Defence and Veterans' Services Commission represents a major reform in the ****oversight architecture**** of the veteran support system. Rather than creating a new standalone regulator, the Veterans' Advocacy Commissioner role should be embedded as a ****Deputy Commissioner within the DVSC****. This would ensure coherence in oversight, avoid duplication of regulatory functions, and reinforce that advocacy is a central element of system reform, not an adjunct.

The Deputy Commissioner (Veterans' Advocacy) should be the ****central complaints authority**** for veterans' advocacy. This office would handle complaints against both paid and volunteer advocates, investigate breaches of the Codes of Conduct, and impose sanctions where necessary. Locating this function within the DVSC ensures that complaints are handled independently of both the Department of Veterans' Affairs and Ex-Service Organisations, while also feeding back into training standards and compliance monitoring.

The Commissioner would also set standards, accredit training providers (including ATDP, RTOs, and universities), maintain a register of accredited advocates, audit CPD compliance, and investigate systemic issues. Ex-Service Organisations would continue to sponsor volunteers, but ultimate oversight must rest with the Commissioner, not DVA or ESOs.

Each ESO should also be required to demonstrate internal compliance by maintaining a Level 4 Specialist Advocate. This role provides internal quality assurance and ensures a direct link between the ESO and external legal expertise.

Qualifications and Appointment of the Deputy Commissioner

The Deputy Commissioner (Veterans' Advocacy) should be appointed by the ****Governor-General****, on nomination from the ****Attorney-General****, rather than through the Minister for Veterans' Affairs. This appointment process ensures independence from both the Department of Veterans' Affairs and Ex-Service Organisations.

The appointee should have demonstrated expertise in administrative law, veterans' entitlements, and regulatory governance. Desirable qualifications include:

- senior legal or tribunal experience (e.g., Administrative Review Tribunal judicial member, Ombudsman's office, or judicial officer);
- proven knowledge of veterans' compensation legislation; and
- independence from any agency over which the Minister for Veterans' Affairs has authority, or from any Ex-Service Organisation executive structure.

These qualifications and appointment safeguards are critical to ensure the role carries both professional authority and the trust of the veteran community.

Impact on Ex-Service Organisations (ESOs)

It is acknowledged that these reforms — including the mandatory presence of a Level 4 Specialist Advocate, statutory Codes of Conduct, and enhanced training requirements — will place additional administrative and compliance burdens on Ex-Service Organisations. Many ESOs are run by volunteers and already operate under resource constraints.

However, these organisations exist to serve veterans. The primary obligation in any advocacy system must be to the veteran, not to the convenience of the institutions that support them. Where there is tension between reducing burden on ESOs and safeguarding the rights of veterans, the veteran must come first.

To support ESOs in adapting to these reforms, transitional funding, training subsidies, and centralised administrative support should be considered. This will ensure that the burden is manageable, while the standards of advocacy are raised to a level that genuinely protects veterans' interests.

System-Wide Benefits of Compliance

A highly regulated and compliant advocacy system will ease the burden on departmental investigations and decision-making. When advocates operate to statutory standards — with proper training in administrative law, evidence gathering, and tribunal procedures — claims will be better prepared, evidence will be more complete, and disputes will be narrower. This will reduce unnecessary delays, appeals, and remittals, while improving consistency and fairness.

At the same time, the claims process must remain accessible to veterans who wish to self-represent. The Department of Veterans' Affairs must provide resources, guidance, and forms that conform precisely to legislation, avoiding the current situation where veterans are left to interpret informal guidelines or ambiguous instructions. A self-representation pathway, supported by clear statutory-compliant materials, is essential to preserving veterans' rights of choice.

Anticipated Objections and Responses

****Ex-Service Organisations (ESOs):**** ESOs may argue that mandatory compliance burdens are too heavy for volunteer-driven organisations. Response: Transitional funding, training subsidies, and shared resources can offset this burden. These reforms also protect ESOs by reducing liability and reputational risks.

****Department of Veterans' Affairs (DVA):**** DVA may resist ceding control to an independent Commissioner. Response: Stronger advocacy oversight will ease DVA's workload by improving claim quality and reducing appeals, while enhancing public trust.

****Treasury/Finance:**** Financial concerns may be raised about the cost of new structures.
Response: Embedding the Commissioner within the DVSC avoids duplication, and long-term cost savings will arise from fewer appeals, remittals, and delays.

****Private Paid Advocates ('Cowboys'):**** Some may resist regulation of fees and conduct.
Response: These reforms protect both veterans and reputable advocates, by eliminating exploitative practices and professionalising the sector.

Recommendations

1. Develop statutory Codes of Conduct for pay for service and volunteer advocates.
2. Establish an independent Veterans' Advocacy Commissioner with oversight of training, accreditation, compliance, and complaints.
3. Embed the Veterans' Advocacy Commissioner role as a Deputy Commissioner within the Defence and Veterans' Services Commission, to strengthen the overall ****oversight architecture****.
4. Mandate administrative law training and CPD for all advocates.
5. Require indemnity insurance for all advocates (VITA for volunteers, equivalent for paid advocates).
6. Require written advice to veterans on indemnity rights and claims processes.
7. Prohibit volunteers from charging fees.
8. Make it unlawful to represent a veteran for a fee unless Code-compliant.
9. Require all ESOs providing advocacy services to maintain at least one Level 4 Specialist Advocate.
10. Provide transitional support to ESOs to manage the additional burden of compliance.
11. Resource a statutory-compliant self-representation pathway for veterans who wish to pursue claims independently.
12. Designate the Deputy Commissioner (Veterans' Advocacy) within the DVSC as the primary complaints authority for veterans' advocacy, responsible for investigating misconduct, enforcing compliance with the Codes of Conduct, and reporting systemic issues.
13. Require the Deputy Commissioner (Veterans' Advocacy) to be appointed by the Governor-General on nomination from the Attorney-General, with qualifications ensuring independence, legal expertise, and credibility.

Paid Advocates Code of Conduct

This Code establishes the minimum professional and ethical standards for paid advocates who represent veterans and their families in compensation and support matters.

Oversight

Compliance with this Code is overseen by the ****Deputy Commissioner (Veterans' Advocacy)****, appointed by the Governor-General on nomination from the Attorney-General. The Deputy Commissioner functions as the independent regulator and complaints authority for veterans' advocacy.

Core Principles

- Act in the best interests of the veteran at all times.
- Provide transparent disclosure of all fees, charges, and terms of engagement.
- Avoid conflicts of interest and improper influence.
- Respect confidentiality and privacy.
- Provide accurate, timely, and complete advice.
- Treat veterans, families, colleagues, and departmental staff with respect.

Registration and Training

Paid advocates must:

- Be registered under a statutory scheme administered by the Deputy Commissioner.
- Undertake training in administrative law, compensation legislation, and tribunal processes.
- Complete annual continuing professional development.
- Operate within the limits of their competence and refer matters when necessary.

Insurance and Indemnity

Paid advocates must:

- Hold and maintain professional indemnity insurance at a level approved by the Deputy Commissioner.
- Provide veterans with written confirmation of coverage and rights.
- Accept responsibility for advice given to clients.

Complaints and Sanctions

Complaints about paid advocates must be referred to the Deputy Commissioner (Veterans' Advocacy), who has authority to investigate breaches of this Code, impose sanctions including suspension, deregistration, or financial penalties, and refer matters to law enforcement or professional bodies as appropriate.

Volunteer Advocates Code of Conduct

This Code establishes the minimum professional and ethical standards for volunteer advocates who provide assistance to veterans and their families in compensation and support matters.

Oversight

Compliance with this Code is overseen by the **Deputy Commissioner (Veterans' Advocacy)**, appointed by the Governor-General on nomination from the Attorney-General. The Deputy Commissioner functions as the independent regulator and complaints authority for veterans' advocacy.

Core Principles

- Act in the best interests of the veteran at all times.
- Provide services free of charge — no fees, commissions, or hidden benefits may be sought or accepted.
- Respect confidentiality and privacy.
- Provide accurate, timely, and complete advice.
- Avoid conflicts of interest.
- Treat veterans, families, colleagues, and departmental staff with respect.

Training and Competence

Volunteer advocates must:

- Complete and maintain ATDP accreditation at the level appropriate to their role.
- Undertake continuing professional development, including administrative law training.
- Operate within the limits of their training and competence, and refer complex cases when necessary.

Insurance and Indemnity

Volunteer advocates must:

- Ensure coverage under the Veterans' Indemnity and Training Association (VITA) scheme or equivalent.
- Inform veterans of the protections and limitations of indemnity insurance.
- Provide veterans with written confirmation of coverage.

Complaints and Sanctions

Complaints about volunteer advocates must be referred to the Deputy Commissioner (Veterans' Advocacy), who has authority to investigate breaches of this Code, impose sanctions including suspension or deregistration, and refer matters to other authorities where necessary.

ESO Responsibilities

Ex-Service Organisations that sponsor volunteer advocates must:

- Ensure all advocates comply with this Code.
- Maintain at least one accredited Level 4 Specialist Advocate for internal oversight.
- Cooperate with audits, investigations, and compliance reviews conducted by the Deputy Commissioner.

Stepped Training Pathway for Volunteer Advocates (Visual Summary)

This diagram shows the proposed progression of training and responsibilities for volunteer advocates:

Step	Role & Scope
Step 1	Claims Assistant – Assist in compiling and lodging claim forms. Supervised only.
Step 2	Evidence Advocate – Identify supporting evidence (medical, service, operational). Aligns with written reasons for decisions.
Step 3	Review Advocate – Represent veterans at the VRB and the ART. Advanced advocacy training required.
Step 4	Specialist Advocate (Legal Interface) – Brief lawyers for judicial review (ADJR Act). Not authorised to appear in court. Internal ESO Oversight