



AUSTRALIAN SPECIAL AIR SERVICE ASSOCIATION

SUBMISSION TO FADT ON

INCOME & COMPENSATION

INTRODUCTION

This submission summarises the input to the inquiry on behalf of the Australian Special Air Service Association (ASASA). This has been compiled by the National Executive on behalf of all our state branches and reflects the general opinions of our membership in relation to the Terms of Reference and items; a), b) & c).

It is noted that in providing this feedback the ASASA represents a subset of the general Army/Military community, but one that in recent years has borne a significant level of engagement in all recent conflicts specifically Iraq and Afghanistan conflict zones. As a result of this service there are a considerable number of former serving SAS members who are in need or have experienced the process of engagement with DVA around compensation and ongoing support for injuries or other conditions because of their service.

Furthermore, within our state Association bodies there are several volunteers who have qualified in and carry on a significant support service in the provision of Advocacy services and advice to our members or those who have served in the SAS. This is an important function as former Special Forces soldiers, and as Advocates they can fully understand the nature of Special Forces service and therefore provide support related to the varying needs and attributes associated with service in these challenging conflict environments and the flow on aspects that then impact a veterans health post service.

We have several advocates, offering locational representation across the main hubs in each state. Also, with a significant range of members from Vietnam service days through to current day we have clarity and experience of all three Acts and the implications for many veterans over all these years with regard the following legislation.

- Military Rehabilitation and Compensation Act 2004 (MRCA)
- Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988 (DRCA)
- Veterans' Entitlements Act 1986 (VEA)

So, in offering this submission the ASASA makes the following Key points that are elaborated further in the following pages of our response:

- a. We do not support commercial entities providing fee for service advocacy advice and support.
- b. We recognise the value of legal representation on the VRB, but advocate that veterans with lived experience must be included/sustained on the VRB.
- c. Strongly support the establishment of formal regulation, structured training programs, and professional discipline measures to ensure veterans receive competent, ethical, and effective advocacy.

All elements above are detailed in the following sections under each of the relevant TOR that have been addressed by the ASASA.

Terms of Reference: The Appropriateness of Commercial Entities Providing Advocacy Services and Charging Fees or Commissions on Statutory Entitlement Payments

The ASASA is a not-for-profit, volunteer-led Ex-Service Organization dedicated to supporting veterans with claims, compensation, and wellbeing assistance free of charge. We strongly oppose the commercialization of veterans' advocacy services and express significant concerns regarding the appropriateness of for-profit advocacy models.

Concerns Regarding Paid Advocacy Services:

1. Financial Burden on Vulnerable Veterans:

- Veterans often seek advocacy due to financial hardship or health challenges.
- Commercial advocacy services while they may seem to offer quicker claim development, then charge fees or commissions for this convenience that then reduce the compensation value that veterans receive, limiting their financial security.
- Fee structures incentivize high-volume case processing rather than quality advocacy and personalized support. In addition there are varying models of fee for service that may "charge" ongoing fees on future compensation or pension payments.
- Veterans should never be forced to pay for assistance in accessing their statutory entitlements.

2. Lack of Regulation and Transparency:

- For-profit advocates operate without formal accreditation or oversight from the Department of Veterans' Affairs (DVA).
- There are no mandated ethical standards, which can lead to misleading claims regarding success rates and outcomes.
- The lack of industry regulation allows the potential for exploitative practices that disadvantage veterans.

3. Risk of Conflicted Interests:

- Some commercial entities prioritize profit over veterans' best interests. Time is money in commercially focussed business's and there is an underlying business imperative towards profitability over service.
- A good ESO advocate provides sound advice and guides clients through, what is for a number of people, an exasperating process. A process where they feel powerless. A good advocate cares for the veteran, whereas a fee for service company is only interested in the financial outcome.
- Unlike volunteer advocates, paid advocates may focus on cases with higher financial returns, leaving complex or lower-value claims underserved.
- Further paid advocates only focus on the short-term financial transaction associated with a claim, rather than having a long term plan or strategy to fully support the veteran and understand the outcome of their actions associated with the claim. Specifically, if the initial case submission does not provide the financial return on the time investment for the case that the commercial business is expecting, the ongoing support and advice to the veteran with regard their claim and their wellbeing will waiver.

- A full case study of an example of such practice and importantly its impact on the veteran is enclosed as ANNEX A to this submission. While some specific details of the case study have been anonymised the essence of the study clearly highlights this issue associated with fee for service advocacy and a lack of linkage and overall care for the support to the veteran.
4. Free Advocacy Services Already Exist:
- Volunteer-led ESO advocacy programs provide expert, accredited, and ethical support without cost. However, like most volunteer organisations/services they often lack the financial capacity to provide clear information and/or advertising of their services including the benefits of using an accredited advocate.
 - Advocacy Training and Development Program (ATDP) ensures ESO advocates meet high competency standards in compensation and wellbeing services.
 - Veterans do not need to pay for effective representation when qualified volunteers are available.

RECOMMENDATIONS

To protect veterans, the ASASA recommends:

1. Stronger regulation of commercial advocacy services, including mandatory accreditation and ethical oversight.
2. Prohibiting percentage-based fees on statutory compensation payments.
3. Expanding funding for volunteer advocacy training programs to ensure high-quality, free support remains accessible.
4. Greater funding available to ESO of education and awareness campaigns to ensure veterans know they do not need to pay for effective advocacy.

Veterans have served their country with honour and should never have to pay for assistance in accessing the entitlements they rightfully deserve. Advocacy should always be based on integrity, transparency, and the best interests of veterans—not profit motives.

The ASASA remains committed to ensuring veterans receive fair, ethical, and expert advocacy—free of charge.

Terms of Reference: Representation of Veterans at the Veterans' Review Board, Including by Legal Practitioners

The ASASA is a not-for-profit, volunteer-led Ex-Service Organization committed to ensuring veterans receive fair, informed, and expert representation when seeking reviews of compensation and entitlements.

We acknowledge that legal practitioners play an important role in the Veterans' Review Board by ensuring sound legal interpretations of veterans' legislation and procedural fairness. However, we strongly advocate for the inclusion of representatives with lived military experience, ensuring the unique realities and challenges faced by veterans are fully understood and appropriately addressed.

1. Importance of Veteran Representation at the VRB:

- Veterans often face complex medical, psychological, and social challenges that cannot be fully understood from a strictly legal perspective.
 - Having VRB members with direct military service experience ensures decisions are made with practical insights into veterans' experiences and their lives, not just legal technicalities.
 - Veterans navigating the appeals process benefit from representatives who understand military culture, service-related injuries, and the transition to civilian life.
 - Someone with veteran experience also has a sound methodology and innate experience to facilitate a fuller understanding in ascertaining the veracity and validation of elements of the claims by veterans with regard the true level of the actual impact on life relative to their service experiences and other matters included in their claim.
2. Balance Between Legal Expertise & Veteran Experience:
- While legal professionals provide essential expertise in interpreting legislation and procedural rules, they should not be the sole representatives at the VRB.
 - A diverse Board composition including veterans, medical professionals, and experienced advocates ensures a balanced approach to reviewing cases.
 - Decisions should reflect both legal accuracy and a deep understanding of military life, ensuring fair outcomes for veterans.
3. Opportunity for Veteran to have legal assistance and/or advocacy advice:
- Currently a veteran "client" is not allowed to bring legal representation with them to the VRB, however DVA can.
 - While the VRB is supposed to be a non-adversarial environment; this inequality does not present to the client as such and is perceived that the 'other side' has a massive advantage by having lawyers available.
 - A balanced position would be that the VRB should allow legal representation for both sides.
 - Another element of this position is the lack of level 3 trained advocates who can represent a client at the VRB. The ATDP rules state that an Advocate must be trained to level 3 for the VRB and Level 4 for the ART, however with no advocates available, who is supposed to represent the client if not a lawyer ?

RECOMMENDATIONS for Strengthening Veteran Representation.

To enhance fairness, transparency, and credibility, we recommend:

1. Mandating veteran representation on the VRB to ensure military service experience informs decisions.
2. Expanding appointments to include former service members, military advocates, and healthcare professionals specializing in veteran health.
3. Increasing collaboration between legal practitioners and trained ESO advocates, ensuring decisions reflect both legal considerations and real-life military experiences.
4. Providing specialized training for VRB members, ensuring they understand the mental health impacts, service-related injuries, and transition challenges veterans face.
5. Allowing veterans to have legal representation/advice at the VRB to equalize the perceived knowledge and power imbalance.

The Veterans' Review Board must reflect the lived realities of those who have served, not just the legal frameworks governing their entitlements. Fair representation enhances trust, strengthens advocacy, and ensures that veterans receive just outcomes based on both law and lived experience.

The ASASA remains committed to advocating for a Veterans' Review Board that is representative, fair, and truly responsive to the needs of Australia's veteran community.

Terms of Reference: Regulation, Training, and Professional Discipline Arrangements for Advocates

The ASASA strongly support the establishment of formal regulation, structured training programs, and professional discipline measures to ensure veterans receive competent, ethical, and effective advocacy. Our position for this is summarised in the following points:

1. The Need for Strong Regulation in Advocacy Services
 - Currently, for-profit advocacy services operate without government oversight, leading to inconsistent service quality.
 - Advocates should be subject to mandatory accreditation and ethical standards, ensuring veterans receive accurate and fair representation.
 - Establishing a national regulatory framework would provide clear guidelines for advocacy conduct, eliminating potential conflicts of interest.
2. The Importance of Formal Training for Advocates
 - Advocacy requires expert knowledge of veterans' legislation, compensation schemes, and administrative procedures.
 - The Advocacy Training and Development Program (ATDP) should be expanded and made mandatory for all advocates, including paid and volunteer services.
 - Formal training ensures advocates possess essential competencies in claims assistance, appeals processes, and ethical client management.
3. Establishing Professional Discipline Arrangements
 - A disciplinary framework should be introduced to investigate misconduct and ensure accountability.
 - Advocates found to engage in misleading practices or unethical behaviour should face appropriate penalties, including license revocation for paid advocates.
 - A Veterans' Advocacy Oversight Body could serve as an independent authority to monitor complaints and compliance.

RECOMMENDATIONS

To ensure high-quality advocacy services, the ASASA urges policymakers to:

1. Mandate formal training for all advocates, ensuring consistent knowledge and service standards.
2. Introduce a national accreditation system to maintain professional and ethical advocacy practices.
3. Establish a disciplinary body to monitor advocacy misconduct and enforce accountability.
4. Prioritize funding for volunteer advocacy programs, ensuring veterans have access to free and expert assistance.

Veterans deserve well-trained, ethical advocates who act in their best interests rather than a fee based for profit fiscal outcome. Establishing clear training, regulation, and disciplinary frameworks is essential to ensuring fair, transparent, and effective advocacy services.

The ASASA remains committed to ensuring veterans receive high-quality advocacy support, built on integrity, expertise, and professionalism.

CONCLUSION

The ASASA is a not-for-profit, volunteer-led Ex-Service Organization committed to ensuring veterans receive fair, informed, and expert representation when seeking reviews of compensation and entitlements. As the National representative ESO on behalf of all our State Branches and members we strongly recommend that:

- Advocacy services should remain free of charge to veterans and appropriate support and funding to ensure high quality advocacy support is available to veterans.
- Mandating veteran representation on the VRB to ensure military service experience informs decisions and can be understood by those providing more specialised legal knowledge and representation..
- Mandate formal training for all advocates, ensuring consistent knowledge and service standards including the introduction of a national accreditation system to maintain professional and ethical advocacy practices.

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ANNEX: A. Case study veteran and commercial advocacy services.

ANNEX A:

Context: This is a “case study” article reflecting the experience of a veteran’s with the engagement of a commercially focused advocate. The review of the case and the key issues identified has been developed and authored by a very experienced and capable advocate working under the auspices of the Australian SAS Association.

HOW NOT TO PROCEED - A VETERAN TRAVESTY

This article is a very sad reflection of expectation, faith, trust and naivety. It describes some of the complications and ill-informed choices that a veteran can make when seeking recognition and support from the Department of Veterans’ Affairs (DVA) for service-related illnesses and injuries.

In early 2022, Daz, an ex-serving veteran realised, after stopping work in early 2019 and not being able to work that he needed to obtain medical and financial support from somewhere or somebody. After talking to some of his ex-serving mates, he heard that because several of his illnesses and injuries were related to his time in the Army and had stopped him from working, that DVA may be able to help him. After further discussion, reassuring enquiries and the possibility of support from DVA, he heard about a local Company (They will be referred to throughout this story as the Company), who offered help with the relevant processes to obtain support from DVA.

Apparently, the Company is a medical group who advertise psychological and emotional support and assistance to veterans, provide a range of services which also include claims management, case management, medico-legal reports and coaching. A part of these services, included assisting veterans to submit applications/ claims to the DVA for entitlements, medical support and rehabilitation.

Daz approached the recommended Company and attended a meeting where they outlined the processes involved, detailed what they could do for him and told him that he wouldn’t be charged for their services. When he enquired about the cost for their services, they described how they would charge DVA for their services. The process of obtaining the costs for the service was that he would attend a meeting and it would be invoiced to DVA as being a medical consultation. It all seemed “above board”, workable, plausible and credible so he engaged them to help him and signed an agreement for their service. After obtaining copies of his service records and medical documents, he attended several meetings with the Company and commenced the process of compiling and submitting claims.

He was encouraged with the processes involved and it was indicated that he would more than likely be granted an Intermediate and/ or Special Rate of Pension, the Special Rate being Totally and Permanently Impaired Level of pension (TPI) under **Veteran’s Entitlement Act 1986 (VEA)** and that would accompany a “TPI” embossed Gold Card. It was also during this period that Daz applied for and obtained a DVA White Card and submitted a successful claim for the Veteran’s Payment which provided him with some financial relief.

After several meetings, a total of fourteen claims were compiled and submitted to DVA for various service-related injuries and illnesses on behalf of Daz. His Claims were supposedly submitted under one or more of the various Acts which dictate eligibility and entitlement according to period of service, recognised date of the injury/ illness’s onset and when/ where the injury/ illness occurred. He believed by submitting these claims he would receive recognition for his service-related injuries and illnesses, the impact that they are having on his life and hopefully he would be eligible for the appropriate medical and financial support.

Although several of the injuries and illnesses were accepted by DVA in their Decision letter a few months later, some weren’t! The Decision also described how he was not eligible to receive the **VEA** Intermediate and/ or Special Rate of Pension. Daz then approached the Company person who assisted him to submit the claims and requested an explanation as to why they weren’t accepted and why he wouldn’t get the TPI. It was simply indicated that they were as disappointed as he was, however, they didn’t explain why he didn’t get a TPI pension. Not knowing what to do about his dilemma Daz then sought advice from the Company as to what was the next step to try and sort out his situation and get his failed claims accepted. He was advised to submit an appeal.

Shortly after with his agreement, the Company representative compiled and submitted an appeal to the **Veterans’ Review Board (VRB)**. The Representative submitted appeals for “**the**

non-acceptance of Cervical Spondylosis, Bilateral Trochanteric Bursitis and Gluteal Tendinopathy and Daz not being eligible for the VEA Intermediate Rate or Special Rate of pension". Sadly, Daz was not consulted, nor has he been advised of the form or make-up of the appeal that was submitted to this day. Further to that, he has not received any further information from the Company as to why the claims were not accepted and what the steps were needed to comply with the process.

About two months later, Daz, along with the Company receive an email and a copy of the **Section 137 Report** from the **VRB**. The email describes the relevant steps and processes associated with the **VRB** and what actions can be taken regarding his Appeal. It also informs Daz that his case has been screened, and a **Section 137 Report** has been prepared. The screening of Daz's Request for Appeal is an internal review and, in that process, the **VRB Review Officer** stated that, **"The available evidence in conjunction with the reasons for review have been considered, taking note of any additional evidence provided that was not available to the original decision maker"**. The outcome of the review by the **Review Officer** was **"I find that it was open to the Delegate to reach the decision, and I'm satisfied that there are no grounds for intervention"**! It was also noted by the **Review Officer** that **"No reasons for Review have been provided"**.

A part of the process at this point is that the **Section 137** also gave Daz another opportunity to provide comment and any additional information regarding the status and outcome of the **Section 137 Report**. It basically provided him with another opportunity to appeal the non-acceptance of the original claims! He is informed by the **VRB** that he has about a month to submit his comments. The **VRB** indicates that if he doesn't respond by the due date, the process will proceed to a **VRB** hearing. Daz doesn't receive any assistance or advice from the Company on how to proceed or what to do. Realising that time is against him to obtain statements and supporting evidence, Daz requests a sixty-day extension to submit comment and supporting documentation. The **VRB** grants him a three month extension.

Complying with the cut-off date for a submission to the **VRB**, and suffering considerable anxiety and virtually unaided, Daz submits two statements of contention to the **VRB**. He focusses on his rejected **Cervical Spondylosis** and the **Bilateral Trochanteric Bursitis and Gluteal Tendinopathy** conditions. His submission consists of four pages addressing the conditions and reasons why/ how he was injured. It also includes a further three inpatient medical reports referring to the conditions and a statement by a fellow serviceman who saw him fall onto his back in East Timor.

Sadly, he did not get any assistance or advice from the Company as to how and what to present to the **VRB** to address his points of contention. Consequently, his response to the **VRB** lacked relevance, didn't present any new evidence or information nor did it have any formal structure. For example, he did not provide any reference to the **Repatriation Medical Authority's Statement of Principles (RMAs SOPs)** or how they related to the injuries/ illnesses and/ or his service. There was a distinct lack of relevance in his submissions.

About two months after submitting his points of contention to the **VRB**, Daz receives a response in which the **Review Support Officer** says, **"Having considered the additional evidence submitted, I find no grounds for intervention."**

The **Review Support Officer** goes on to say **"My reasons are as follows:**

- **"Based on the available evidence none of the relevant factors identified in the Statement of Principles for Cervical Spondylosis are met. Based on the available evidence none of the relevant factors identified in the Statement of principles for Gluteal Tendinopathy are met. Please include the additional information and continue the claim to the VRB"**.

After receiving that very deflating response from the **VRB**, Daz wondered where to go next. He received advice from a fellow Veteran who strongly recommended that he see a local ESO Advocate who may be able to help him. That's where he is now!

Sadly, an independent review of Daz's case by a highly trained and very experienced Advocate into Daz's involvement with the Company and DVA, has raised several questions and concerns. Several of them are summarised in the following comments:

- The very important “discovery process” that establishes a veteran’s background including such things as service history, military postings and overseas/ operational deployments, medical background including all injuries and illnesses and those that are affecting them at the time of the interview/s, the impact that they are having on his life, family and financial situation, the reason/s for seeking help and what the veteran’s expectations are didn’t seem to be appreciated nor sought and consequently began the kaleidoscope of abrogation.
- When Daz explained what his expectations were to the Company, it’s obvious that a proper “discovery” process hadn’t occurred. It seems that the Company didn’t clearly identify and/ or understand what service-related injuries/ illnesses he had, when and where they occurred and how they were affecting him at the time of his interviews. An appropriate follow-up to the “discovery” process would’ve resulted in a practical plan and possibly a strategy that met Daz’s expectations but that didn’t seem to be!
- Based on their actions and their involvement in this case it would appear reasonable to assume that the Company has not received any formal training from or through the **DVA Advocacy Training and Development Program (ATDP)**. That is verified because the Company didn’t seem to know or understand the relevant legislation and processes that would set up and achieve his expectations, dictate and involve the appropriate Acts and claims processes? For example, why did they inappropriately identify and say that he was eligible to submit **Military Rehabilitation and Compensation Act 2004 (MRCA)** claims when he ceased serving and was discharged in 2003?
- The Company really showed its naivety and lack of knowledge about the Legislation and how they were going to achieve Daz’s expectations when they submitted several of his claims under both the **Veteran’s Entitlement Act 1986 (VEA)** and **Safety Rehabilitation and Compensation (Defence Related) Act 1988 (DRCA)**? That wasn’t necessary in view of his expectations and by doing that potentially left him open to unnecessary “**off-setting**”, “**double dipping**” and implementation of the “**alone test**” which probably negated a chance for a TPI!
- It’s also not clear what the Company hoped to achieve by submitting a “Cluster of Claims”. That is a trait of many advocates who hope that “**the more claims the merrier**” and by doing that they will achieve a top/ total result for their client. In many circumstances all that does is complicate the outcome and negate some of the entitlements as described in the previous point. This fallacy is a common practise and needs to be stopped!
- The Company did not recognize the significance of the connection between Daz’s service, his injuries/ illnesses, and the relevance/specific nature of the **RMA’s SOPs**. That was exacerbated in the compilation of the initial claims, endeavours by Daz in his submission to the **VRB** and impacted on the overall outcome!
- The failure by the Company to appreciate the importance of a range of supporting evidence and information is obvious and has caused Daz incredible stress and further psychological and emotional trauma. He expected the Company to help him to obtain enough entitlements and support to see him provided for now and into the future. He wanted a **TPI Pension** under **VEA**. This now doesn’t seem to be the case. Further to that and throughout his association with the Company, they did not provide the advice and support at critical times when they should have!
- Finally, the practise of invoicing DVA for the compilation and submission of Daz’s claims and other related “consultation” under the guise of a medical consultation is questionable and needs to be clarified.

In conclusion, this example of inappropriate advocacy support is not unusual, and the circumstances are common, often seen and heard about. The Advocate who has written this story is constantly involved in assisting veterans in these situations and fixing up their claims and processes. He makes every endeavour to get the best outcomes for the veterans despite these types of situations.

The development of an authority/ board to regulate, train, accredit and manage advocates has been strongly recommended over many years and is needed now. Whether they are paid or volunteer advocates, the proper training, standardisation and validation of advocacy is paramount and very much needed to ensure that veterans are supported efficiently, effectively and not disadvantaged. ESOs have a prime responsibility in this matter in their role of supporting and assisting veterans.