



SUBMISSION TO THE SENATE COMMITTEE

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Foreign Affairs, Defence and Trade References Committee: Issues Relating to Advocacy Services for Veterans Accessing Compensation and Income Support

Submission by Greg Isolani, KCI Lawyers

A. Terms of Reference

The representation of and advice provided by ex-service organisations, commercial entities, not-for-profits and individuals to veterans and families in relation to accessing compensation and income support from the Department of Veterans' Affairs, with particular reference to:

- a. the appropriateness of commercial entities, within and outside Australia, providing advocacy services, including the charging of fees or commissions on statutory entitlement payments;
- b. representation of veterans at the Veterans' Review Board, including by legal practitioners;
- c. regulation, training and professional discipline arrangements for advocates;
- d. the consideration of previous reviews undertaken into the advocacy model, including recommendations made and subsequent implementation or lack thereof; and,
- e. any related matters.

B. Preface

I am extremely fortunate and feel privileged to have practised as a lawyer in the Commonwealth and specifically the veteran's jurisdiction representing veterans and their families since 2002.

I do not have insight or the experience of having worked as an employee, principal, director, or however described with an Ex-Service Organisation. Nor have I served in the Australian Defence Force (**ADF**).

I have held honorary titles of a "legal officer" but only in title and not for remuneration to assist various ESO's and their members.

This includes, for example, Vietnam Veterans' Federation of Australia (VVF), the Vietnam Veterans Peacekeepers and Peacemakers Association of Australia (VVPPA), the Australian Peacekeepers and Peacemakers Association (APPA) and the now-defunct Armed Forces Federation of Australia (ARFFA).

I have worked with exceptional, intelligent and hard-working individual advocates within various ESO's including but not limited to RSL (sub branches) Legacy (NSW), and the former DefenceForce and Welfare Association (DFWA).

Since 1992 to date, I have provided legal advice and assistance to ESO's and advocates regarding particular matters involving a veteran or their family. I have also accepted referrals

to assist on a contingency or a “no win – no fee basis” when assisting veterans to navigate the compensation scheme.

I have also worked closely with the NSW Legal Aid “Veterans’ advocacy service” assisting their lawyers and advocates together with representing a substantial number of veterans who were eligible for a grant of Legal aid from the NSW and QLD Commission with applications before the Administrative Appeals Tribunal (**AAT**), now the Australian Review Tribunal (**ART**) arising under the *Veterans’ Entitlement Act 1986* (**VEA**).

The level of support and assistance includes but is not limited to, “lodging claims”, reviewing determinations made by the Department of Veterans Affairs (**DVA**) under the various compensation (and the current and previous military superannuation schemes), preparing and appearing before the Veterans Review Board (**VRB**) but only up to the various “outreach conferences” (and obviously, not appearing before a hearing). The legal service offered includes representing veterans’ families in coronial inquires (the Victorian inquest into the death of late Jesse Bird and the NSW inquest into the death of the late Ian Turner (noting these are reported decisions, but there have been at least 20 matters before various state and territory coroners where I have assisted families).

In addition, I assist veterans who suffer asbestos, solvent and chemical exposures giving rise to insidious diseases, as well as medical negligence arising during defence service or from services provided to defence members by third-party medical contractors.

I am proud of my representation of a number of veterans before the Royal Commission into Defence of Veteran Suicide (**RCDVS**), including Julie-Ann Finney, Karen Bird, Colleen Pillen, who were instrumental in the promulgation of the royal commission into defence of veteran suicide.

I have represented on my own estimate, hundreds of veterans before the AAT, more than two dozen Federal Court appeals, various Full Federal Court appeals and two High Court applications; one for special leave (*Robson* that the Commonwealth withdrew) and another, *Dopking* with respect to the human rights under the *Australian Human rights Commission and Sex discrimination Act* for being discriminated against as he was in eligible to receive a home purchases allowance that was otherwise payable to couples.

I have attached my *Curriculum Vitae* that details the significant number of Senate and Departmental Inquiries that I have appeared before with respect to issues arising from DVA, veterans in particular and specifically the legislation governing veterans’ entitlements.

This includes my appointment by the former Minister, Dana Vale, on the DVA - Working Group on the *Military Rehabilitation and Compensation Bill* between 2001 to 2004.

I was a member of the Veterans Advisory Committee in 2023 commissioned by the current Minister for Veterans’ Affairs to advise on key elements of the *Simplification and Harmonisation Bill* now passed and will come into effect on 1 July 2026.

Finally, my specialist knowledge and skill set within Commonwealth compensation generally resulted in my appointment by the former Minister Tony Burke to the Department of Employment, Workplace Relations (DEWR), to a three-member panel to review the Commonwealth Compensation - Comcare scheme in June 2024.

On 25 September 2025, the panel report is to be delivered to the current Minister, Amanda Rishworth.

C. Background to Veterans' Advocacy

Briefly, the history of Veterans' advocates is arguably as long as the history of veterans serving in Australia since it became a nation on 1 January 1901, when the six British colonies united to form the "Commonwealth of Australia".

In simple terms, it was "mates helping mates" to assist them or their families navigate the Commonwealth system to compensate members (or their dependents) who served in the Armed Forces and suffered injury or death. The assistance evolved into benevolent organisations to assist veterans and their families, with support that may include, sharing the name of the local doctor familiar with and sympathetic to veterans and other levels of welfare and other support throughout the community.

The provision of compensation, together with services to assist veterans, had its initial genesis in the *Defence Act 1903* (Cth). Thereafter, and following Australia's involvement in two World Wars and subsequent theatres of war and peacekeeping missions (including the British Commonwealth occupational forces - BCOF members at the end of World War II in Japan) required essentially a Commonwealth compensation scheme.

The support for veterans included medical support through specialist veteran or Repatriation Hospitals, and other welfare support for not only those who served in theatres of war, but for those who suffered injury, disease or death from peacetime service.

To advocate on behalf of another ADF member or their family was generally done without favour or reward. It was the "right thing to do" to help those who served and their families at a time of need.

1. Ex-Service Organisations

The history of the Ex-Service Organisations (**ESO**) throughout this period, and in particular the formation of the Returned Services League (**RSL**) founded in 1916 by returned soldiers from World War I to provide support and "advocacy" to veterans and their families, is legendary and continues to this day.

Similarly, Legacy was founded in 1923 by World War I veterans and, it's "solemn promise" to "look after the missus and the kids" of fallen comrades.

Thereafter the evolution of various and significant ESO grew subject to the particular needs, era, theatre of war or circumstances of service that warranted someone to "advocate" on the behalf of that particular veteran cohort.

The need for soldiers to "advocate" on behalf of their mates not only grew over time, but became specialised in particular, following the Vietnam war and the Vietnam veterans push by the formation of two distinct Vietnam veteran organisations; Vietnam Veterans' Federation (VVF) and the Vietnam Veterans Association of Australia (VVAA).

These two Vietnam veteran ESOs' lobbied or advocated the government (and the opposition) over decades, in particular from the 1980s to recognise Vietnam veterans' injuries and in particular, diseases as arising out of the course of their service in Vietnam.

This "advocacy" included a Royal Commission into the ill-health effects of agent orange in the 1980s and working with the US Vietnam veterans in a class action against the US manufacturer of the defoliants and herbicides to set up a multimillion-dollar fund to

compensate the children who suffered the ill-health effects of exposure to chemicals while serving in Vietnam.

The provision of specialist medical treatment included the establishment of the predecessor to psychological cooked counselling by "Open Arms" that was the "Vietnam Veterans Counselling Service" (**VVCS**). The service was funded by DVA but provided a high level of confidentiality in order for veterans suffering psychologically to discuss their issues openly and receive specialised counselling to deal with the undiagnosed "post-traumatic stress disorder" together with its comorbidities, in particular, alcoholism.

The VVCS extended to include not only themselves but, importantly to the families of veterans, many of whom had children who suffered the ill-health effects, whether through psychological trauma visited upon them by their veteran parent and/or the side effects on the children, caused by agent orange and other chemicals used in the Vietnam war.

This resulted in the "agent orange settlement fund" that was created following litigation and a settlement following a class-action brought by the US Vietnam veterans and their families against the manufacturer manufactures of the herbicides. The class action case was settled out of court in 1984 for \$180 million dollars that was reported at the time to be the largest settlement of its kind.

Although not within the scope of the review nor entirely relevant, ESO is also play a prominent and active role in lobbying the government (and the opposition) and can be a formidable force when advocating various issues including, but not simply limit limited to DVA compensation that matters of welfare, and more recently, whether there was a need for a royal commission into DVA and the role they played with respect to veterans suicide (that involve evolved into the RCDVS).

Additionally, lawyers representing veterans and their family have played a pivotal role in not only advocating but highlighting through litigation, class actions and appearances before various senate and government committees on a pro bono basis to improve compensation and other welfare considerations to veterans including medical support.

At times there has been controversy as to what extent certain ESO (in particular the RSL) play when informing or shaping government policy affecting veterans and their families taken into account the RSL's prominence on a national, state, regional and Suburban or grass roots level in Australian society.

2. Evolution of "Advocates"

Those working within ESO's in the post-1980s were variously referred as "pensions or welfare officers" and the title of "advocate" became synonymous with a level of training provided by DVA and in partnership with various ex-service organisations referred to as the "training and information program" (**TIP**).

The TIP training provided training to various participants, either individually or through ex-service organisations, a repatriation handbook was crafted for "pensions/welfare officers and ex-service organisations could nominate individuals to attend and be "TIP trained".

The training included national training modules that provided a nationalised approach to navigating the DVA compensation schemes together with "videos" produced for such training.

Importantly, there was indemnity insurance provided through a TIP related initiative referred to as the "Veterans Indemnity and Training Association" to cover ASO practitioners.

Generally, ESO's work providing specialised "pensions/welfare officers and "advocates" up to "TIP training level IV" that included, at its highest-level advocacy before the former AAT.

The TIP courses and training were¹:

Pension Officer's course - A two day workshop covering subjects that interest both the

Pension and Welfare Officer. These include income support pensions, disability and war widow pensions, appeals, treatment, Defence Service Homes, the Veterans' Affairs Network (VAN), and Health and Community Services.

Course attendance criteria: Open to ESO and community representatives who are involved, or are about to be involved in assisting veterans, widows and their dependants, and need to access broadly based and accurate information.

Welfare Officer's course - A two day workshop with special emphasis on welfare, health and community support topics.

Course attendance criteria: Open to those who are presently, or about to be, involved in welfare support roles for members of the veteran community

Case Officer's course - A two day workshop covering in more detail, compensation, disability pension matters including preparation of claims, application of the Statement of Principle (SOPs), Guide to Assessment of Rates of Pension (GARP), the Appeals process, and in particular, internal reviews under Section 31.

Course attendance criteria: Open to those who have attended the basic Pension Officer's training, with experience as practitioners and who wish to become involved in the review process.

Advocacy Skills course - A three day workshop covering Advocacy skills for those preparing and presenting appeals at the Veterans' Review Board and the Administrative Appeals Tribunal.

Course attendance criteria: Open to those who have attended a Case Officer's course, gained experience as a practitioner and who wish to present cases at the VRB/AAT level.

Administrative Appeals Tribunal Moot - A one to two day activity which takes in a mock hearing at the AAT with participants having an active role in the proceedings.

Course attendance criteria: Open to advocates and case officers who have indicated an interest in becoming advocates.

AAT Level Advocacy course - This is training for advocates at the AAT level. It is a six day residential workshop conducted under the auspices of the University of Canberra. Attendance is by invitation.

¹ Vietnam Veterans' Association of Australia Website

Currently, Advocates are qualified pursuant to the Advocacy Training and Development Program (ATDP) and bound by advocacy service standards contained in the 'ESO Advocate Code of Ethics' to ensure standards are maintained.

Importantly, there is the VITA – Professional indemnity insurance in the event of a negligent act or omission causing economic harm to a veteran in order that they can recover their loss.

D. DVA – Advocate Symbiotic Relationship

The history of advocacy in broad terms reveals ESO's provided a service to veterans and their families on a cost-free basis.

The ESO's grew and represented various cohorts in the ADF community and therefore had the opportunity to receive a level of funding (BEST) by DVA to support advocacy services together with other services not only with respect to compensation entitlements. This included referrals to specialist and veteran centric medical treatment, assistance with education for children of veterans and a variety of other services because of their specialist knowledge.

The DVA recognise the unique role that "advocates" have within the repatriation system generally and recognised specifically in the VEA that only advocates and by implication, those who are part of the ESO community and not lawyers could appear before a VRB hearing.

The Constitution of the VRB hearings include a "service member" to provide not only specialist skill and knowledge who spoke, "the language" an advocate and veteran could understand and not, for example, a legally qualified practitioner irrespective of whether they served, or otherwise.

The evolution of "advocacy" and the complexity underpinning the DVA compensation scheme evolved over time, but in particular, following the inception of the VEA in 1986, the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (now the *Safety, Rehabilitation and Compensation (Defence-related claims) Act 1988* (Cth) (**DRCA**), the *Military Compensation Act 1994* and the *Military Rehabilitation and Compensation Act 2004* (Cth) (**MRCA**).

The MRCA requires advocates to be skilled in navigating this complex compensation schemes, to understand specialised medical and legal terms, a knowledge of specialist medical evidence and the Repatriation Medical Authority's "Statement of Principles" (SoP's) to link a service injury or disease to a factor within a veteran's service for liability to be accepted.

DVA is well aware of the complexities in their scheme and encourage veterans and their families to ESO's to seek assistance and support whilst navigating the compensation schemes.

There is nothing new, either historically or currently with respect to the level and extent of "advocates" embedded in the DVA compensation schemes, noting the obvious conflict of interest for DVA delegates to provide "independent advice" with respect to decision-making.

A cursory consideration of the DVA website, pro forma decisions and information regarding "assistance" makes reference both in general terms, and to ESO's and a specific number of ESO's that appear to be, essentially "endorsed" by DVA to assist veterans and their families.

Whilst the evolution of technology and, in particular the Internet over the last 30 years. provided veterans and their families with far more information and opportunity to try and engage the DVA system directly. The internet is, by no means a replacement to the skill set and knowledge that an ESO advocate provides as there is simply more to simply "filling out DVA forms".

This need for specialist knowledge was recognised by the RCDVS (Interim Report) delivered on 11 August 2022 with its first recommendation to "Simplify and harmonise veteran compensation and rehabilitation legislation".

This recommendation was, but one of many that bemoaned the complexity of the DVA compensation scheme(s) for veterans and their family to navigate. The government accepted this fundamental recommendation and on 13 February 2025, the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025* (VETS Act) was passed by Parliament.

From 1 July 2026, all compensation and rehabilitation claims will be determined under a single Act – the improved MRCA.

The "simplification and harmonisation" Act still retains at its core, the need and reliance on advocates in so far as only an advocate can appear before the VRB.

In other regards it is silent insofar as the role of advocates play in terms of assistance with respect to the compensation scheme (other than by inference that only advocates can appear before the VRB) but it does recognise the role of lawyers (and financial advisors) have when advising veterans of their rights with respect to certain determinations and irrevocable elections.

E. Response to Terms of Reference (a) – Appropriateness of advocacy services

a. *The appropriateness of commercial entities, within and outside Australia, providing advocacy services, including the charging of fees or commissions on statutory entitlement payments;*

In order to understand the explosion of "fee-for-service advocates" requires an understanding of the current and future DVA compensation scheme predicated on the lodgement of claims for each and every diagnosable condition.

Once liability is accepted, the DVA scheme essentially dictates the assessment of the permanent impairment of those conditions in order to be eligible for a weekly payment (that can be converted to a lump sum or part lump sum and part weekly payment). Importantly, the aggregate number of points for the permanent impairment determines eligibility or otherwise, to the "Gold card" which provides for medical treatment for all conditions, not just those accepted as service related.

Additionally, the combination of impairment points and whether the veteran is totally and permanently incapacitated to work more than 10 hours per week entitles the veterans Gold card to be stamped with the initials "TPI" or total and permanent incapacity.

The attainment of the maximum of 80 impairment points provides for an additional lump sum payment for the veterans "eligible young person" (EYP) or a child or children up to age 25, financially dependent upon the veteran and in full-time education. The current amount is \$111,173.19 per EYP.

The lump sum payable to a veteran for permanent impairment (if converted) is \$580,834.95 for a male veteran age 30 or female, at age 35.

Assuming a veteran takes the permanent impairment as a lump sum and with three EYPs, the total lump sum amount payable to the veteran is over \$914,000.00.

The “fee-for-service” “advocates” obviously see the financial advantage to provide a “service” to obtain a financial benefit to veterans and in turn be paid for this “service”.

1. The Growth of Fee for Service Advocates

Given the amount of money that a veteran may be eligible to receive, the technical skill set required insofar as "lodging claims", and assuming there is no disputation, the potential for a fee-for-service advocate to recover a pre-determined amount based on the outcome (and irrespective of the actual work undertaken) has, in my experience grown exponentially over the last five years, particularly post COVID.

I am grateful for the CPSU submission to the Inquiry detailing the explosion of claims that is, unfortunately, predicated by DVA's requirement that "every condition must be the subject of a claim".

A number of the fee-for-service advocates whilst assisting to lodge claims have their eye only on the financial outcome in order to be paid for their "service".

Quite often advocates work with "veteran centric doctors" and business operators who essentially review ADF and other medical records, provide diagnostic forms and annexed those to a claim, thereby forming a symbiotic relationship between themselves and the fee-for-service advocacy advocates.

The veteran centric medical practitioners are paid directly by DVA through the "transaction reference number" – TRN for medical service providers to upload invoices and related documentation for payment through the "provider upload page" (PUP).

The "need" for fee-for-service advocates is, in part, a response to the complexity of the DVA claims processing requiring a veteran to, firstly, have a medically diagnosable condition, secondly, that condition has to be linked to a factor within the relevant SoP's, thirdly, lodging claims with DVA and ultimately having the accepted condition assessment permanent impairment resulting in the lump sum (all weekly payment or combination).

2. The fee-for-service v legal representation

There is no issue that advocates, in particular, through ESO advocates as outlined above are an integral and important feature of the DVA process to assist and guide veterans who may otherwise find it difficult to navigate the DVA compensation system.

The issues may include linking an injury to a factor within the veteran service using the statement of principle template, that capacity of a veteran to do so without assistance taking into account their own psychological trauma to navigate the DVA system.

Veterans complain bitterly of the constant reliance to complete DVA pro forma paperwork, respond and engage with DVA delegates and related matters that makes fee-for-service advocate attractive.

Essentially, the fee-for-service advocates are filling a hole in the DVA system that DVA themselves cannot plug nor do they appear capable of regulating.

F. Response to Terms of Reference (c) - Regulation of fee-for-service advocates

c. regulation, training and professional discipline arrangements for advocates;

In contrast to fee for service advocates, legal practitioners are heavily regulated by the various state and territory to ensure, for example, fees charged are commensurate with the legal work and skill set provided.

Furthermore, lawyers are accountable for not only the work undertaken, but the service provided is heavily regulated by governing legislation, regulations and ethical consideration, which are onerous and a breach of these obligations can result in sanctions including the suspension or loss of the practising certificate (which is required by a lawyer to practice), a penalty and other disciplinary matters.

The professional indemnity insurance is substantial, noting that the failure to act in a veteran's best interests, lodge applications in a timely manner and not cause economic loss or further substantial psychological harm is a substantial "cost" for lawyers.

In the course of my practice, I obtained an example of "fee-for-service advocates" fee agreement that was vague, and contained a termination clause that appeared to breach the unfair contract term provisions of the Australian Consumer Law. Neither did it contain a notice of rights as to where a person dissatisfied with the advocacy service provided could complain to, which state or territory may regulate the conduct of the fee-for-service provider. It is noted that I am aware of at least one advocacy group is based offshore.

Irrespective of the corporate structure a "fee-for-service advocacy" model adopts, it should provide, fundamentally, and at its core, a notice of rights to a veteran with respect to the contractual terms that must accompany every fee agreement, which must include a cooling-off period.

This assumes that "fee-for-service advocates" are "fit for purpose" within the current and future DVA compensation scheme.

This requires careful consideration as to the type and level of "service" provided to justify pre-ordained fees on the assumption that, in one example of an agreement with a well-known fee-for-service advocacy provider, assumes the veteran will receive a "lump sum".

Ultimately, the fee-for-service provided by their lawyers agreed to drop the "proposed fee" given that they could not justify being paid for work they would not be doing and in anticipation of a lump sum that the veteran may or may not receive.

In turn, they provide an estimate of the fees based on the estimate of the lump sum. This assumes that a veteran will firstly receive a lump sum and not choose to accept a weekly payment. Secondly, it does not in any way take into account the relationship between the work undertaken and the fees to be charged but simply assumes that irrespective of the work undertaken, there will be an amount deducted.

1. Case study

As mentioned, In the course of my practice, I obtained an example of "fee-for-service advocates" fee agreement that was vague, and contained a termination clause that appeared to breach the unfair contract term provisions of the Australian Consumer Law.

I attach and mark with the letters GI-1 a copy of the fee agreement (with relevant redactions) together with the ensuing correspondence between our office and a subsequently engaged law firm, regarding whether the termination clause was essentially “invalid” and unenforceable.

Note that the terms of the fee agreement includes provisions regarding the registration of a Veterans security interest on the PPSR.

2. Advocacy Skill Set or Otherwise

There is no requirement for the operator of the business model and the “advocate” to disclose their skill set and undergo any probity checks or that they are “fit for purpose”.

Unlike lawyers who, when renewing their practising certificate yearly, must declare that that are a “fit and proper person” to practice and must disclose if they have been subject to disciplinary proceedings, charged (not convicted) with any criminal offences, have medical conditions that may impair their decision-making and other related matters.

In contrast, advocates provide a “service” irrespective of these considerations that lawyers must address and presumably an ESO would consider when employing a potential advocate that they can undertake the inherent requirements of the job.

3. The lived experience -v- Expertise and knowledge

Quite often, what is evident is that “advocates” have “lived experience” because they served in the ADF. There is no correlation between serving in the ADF and having a legal skill set to navigate a DVA compensation system that includes appeals to the VRB and possible further appeals to the ART.

A cursory consideration of the various “fee-for-service advocates” websites confirm they do not offer any specialist skill set to provide advice with respect to appealing adverse decisions.

They simply assume once they obtain a “permanent impairment” (i.e. lump sum) that it will be sufficient if not, they will achieve the maximum level of impairment, be paid irrespective of the work undertaken in the veteran can continue on their journey.

There is very little “evaluating” when considering, for example:

- a. issues that may arise regarding the calculation of the veterans’ compensation rate if they are receiving incapacity payments to include or exclude allowances;
- b. if a veteran has undertaken paid civilian employment after discharge and ceases because of a DVA related injury, whether they should be entitled to a higher level of compensation and so forth.
- c. broader considerations as to whether there is potentially industry superannuation benefits that may be payable or to top up DVA entitlements, such as income protection or a total and permanent disability benefit
- d. whether the veteran’s spouse may be eligible to one or both the attending care and home services payment if they are essentially providing a high degree of one or both services because of the veteran’s injury and may be entitled to compensation.

The fee for service advocates lack the experience, skill set and qualifications to consider and advise on third-party common law claims for negligence, insidious disease medical negligence and the potential separate common-law actions against third parties.

A cursory consideration of the "fee-for-service" advocates contained in the submissions before this Senate Inquiry does not even take into account the potential for a range of other considerations not to simply "defence injuries" and what is in the best interest of the veteran and not what fees they may be able to recover irrespective of the work undertaken.

4. Developing jurisprudence – Continuing legal education

There are no requirements for fee for service advocates to be subject to any continuing legal education or training. Obviously, there are "lived experience" together with attempting to ensure veterans receive the highest level of impairment is of paramount concern and focus given their business model is predicated on obtaining lumpsums.

In my experience there has been significant expansion of entitlements given the case law and in particular substantial cases I have pursued on behalf the veterans that benefit veterans broadly.

The main example is a case of *Robson* and expansion of lump-sum payments for two or more mental health conditions that are separately diagnosed arising from two different events.

Other Federal Court decisions, including payment for increments for years of service were denied, AAT cases, giving widows and veterans entitlements that were otherwise denied would not have progressed in benefits not paid in the hands of "fee-for-service advocates".

The common law claim for damages on behalf of Karen McColley, widow of the late Vietnam veteran and first President of the QLD Vietnam Veterans' Federation, Gary McColley, who incinerated himself as a public protest after a failed DVA "fraud investigation" was determined by the Full Court of the ACT Supreme Court in Queensland. The outcome of the decision is that it can be argued that DVA owed a duty of care when administering the compensation scheme to avoid causing further harm to a veteran.

These are a few obvious examples of how lawyers and not "fee-for-service advocates" pursue claims before Tribunals and Courts to highlight the glaring deficiencies in the DVA compensation scheme, including its administration, causing loss and harm or denial or reduction of benefits that are claimable, that would otherwise be ignored.

There have clearly been other legal decisions that have expanded and clarified veterans' entitlements. The decision in *Repatriation Commission v Connell* changed the interpretation of paragraph 23(1)(c) of the VEA with respect to clarifying number of hours a veteran can work (in a practical and not theoretical sense) in order to be eligible to the special rate or intermediate rate of pension. This decision would not have been pursued through the federal court by "fee-for-service advocates".

G. Response to Terms of Reference (d) – Previous reviews

- d. the consideration of previous reviews undertaken into the advocacy model, including recommendations made and subsequent implementation or lack thereof; and,*

in 2018, the DVA commissioned Mr Robert Cornell to undertake a "advocacy study" following the Senate committees. "The Constant Battle" report of 15 August 2017 found the current

Abbott advocacy model is unsustainable because organisations are unable to attract a younger volunteer workforce.

The committee recommends that the Australian Government establish a Bureau of Veterans' Advocates to represent veterans, commission legal representation where required, train advocates for veterans and be responsible for advocate insurance issues (Recommendation 23).

The committee also recommended the Australian government establish an independent review of the representation of veterans before the veterans review board. This review should assess whether the rights of vulnerable veterans are being adequately protected and whether further support mechanisms for veterans appearing before the veterans review board are required (Recommendation 24).

Obviously, and with respect, this is not the first time the Senate has considered the issue of advocates, nor is it the first time that DVA has become aware of the need for accredited and approved advocates, the question of whether lawyers should be before the DRB and, fundamentally, putting the veterans' welfare front and centre.

This Senate Inquiry is in a unique position to build on recommendation 99 of the RCD BS and in particular that there is more than just simply providing "more funding" to ESRs with respect advocacy but a proper system of regulating advocates.

1. Regulating advocates

The Parliament together with DVA have substantial resources to consider its own system of accreditation in other schemes and departments in order to protect a particular vulnerable cohort with respect to dealing with the DVA, appeal rights and other related matters.

In particular, with respect to legal assistance and representation for migrants seeking to enter Australia and obtain visas, they must consult a migration agent.

A migration agent is registered with the Office of the Migration Agents Registration Authority (**OMARA**). Only registered migration agents and legal practitioners can charge for immigration assistance.

The migration agents are not only registered but are regulated by OMARA. This ensures a high standard, together with a code of conduct for migration agents to provide information and advice to potential migrants, prepare and lodge visa applications and act as intermediaries to legally represent clients during Visa processing and before review bodies.

Essentially DVA has a framework that it can consider to utilise existing training programs, conduct probity test and ensure that not simply veterans but also lawyers are "fit for purpose" to provide advocacy services by registered advocates.

There should be clear delineation and limitation on fees that "fee-for-service advocates" can charge, if any, noting their limited skill set and focus on "permanent impairment, lump-sum claims" in order to sustain their business model i.e., profitability.

2. Accreditation courses

As noted above, the previous "TIP" program provided a course run by the University of Canberra. Similarly, the former Lismore University, NSW (now Southern Cross University) offered a veterans' advocacy course with specialist presenters to fully inform and train advocates assisting veterans.

At a minimum, there should be an accreditation course that must be completed by non-legally practising “advocates” who, together with a proposed migration agent type model called “DVA Advocate Representatives” (**DARs**) who can only act on behalf of veterans and have direct access to DVA via a dedicated portal and other controlled means of interfacing with DVA.

A regulated system of DAR’s also ensure veterans are provided with clear notice of rights regarding the responsibilities and obligations of the DAR’s i.e. a code of conduct that would be enforceable if there were breaches i.e. a DAR could be refused an ongoing license, face penalties and other measures to ensure a high standard, together with regulation of fees charged by DARs.

H. Conclusion

DVA have a significant opportunity to act with the inception of the *Simplification and Harmonisation Act* from 1 July 2026 to ensure veterans are not subject to aggressive and unnecessary “fee-for-service” advocates.

The time to act is now, and not to add another layer of reviews and recommendations on top of what was previously outlined in the “Constant Battle” Senate Inquiry into veteran suicides.

Doing nothing leaves veterans vulnerable and preyed upon by opportunists whose paramount interests are their commercial considerations, and not what is in the genuine best interest of the veteran.

Greg Isolani

23 September 2025