



## DEFENCE FORCE WELFARE ASSOCIATION

*Patron-in-Chief: His Excellency General the Honourable David Hurley AC DSC (Retd)*

### *NATIONAL OFFICE*

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**Enquiry Secretary**  
Administrative Appeals Tribunal Enquiry  
4 National Circuit  
BARTON ACT 2600

Via Email: [AATReformEnquiries@ag.gov.au](mailto:AATReformEnquiries@ag.gov.au)

## **SUBMISSION TO ATTORNEY-GENERAL'S DEPARTMENT ENQUIRY INTO REFORMING THE ADMINISTRATIVE APPEALS TRIBUNAL**

### **Introduction**

The Defence Force Welfare Association (DFWA), along with the Returned & Services League of Australia (RSL), RSL, the Defence Reserves Association and Soldier have made a submission to the Government's proposed Administration Review Reform Enquiry. This joint submission brings together the collective, considered views of not only these four ESOs but of other interested organisations and individuals as well.

### **Administrative Review Reform**

DFWA now wishes to reinforce several elements of the submission by emphasising the following:

- a. **The Australian Defence Veterans' Covenant.** The Covenant should underpin all matters relating to veterans and their families. It serves to recognise and acknowledge their contribution to the security of the nation.
- b. **Unique Nature of Military Service.** In ordinary times military service is freely rendered by volunteers. In extreme circumstances the social contract may be invoked by the State by way of compulsion. In either case, however, once he/she has entered military service, the relationship of obedience is established. This relationship **necessarily** requires the surrender of the individual's 'inalienable' right to liberty and alienates his/her right to life and security of the person, by placing responsibility for their preservation in the hands of others.

Not every person who renders military service encounters the enemy on the battlefield, but every person who enters military service must accept that he is expected to do so, if ordered, and is trained to do so. For a few individuals who enter military service on behalf of the nation, mental health issues will be a major factor and their vulnerability needs due consideration.

- c. **Royal Commission into Defence and Veteran Suicide.** The current Commission and the present promotion of change regarding simplification and harmonisation of legislation related to veteran and veteran family entitlements is inherent in the administrative review processes.

While some changes have started, many will continue for several years. These must be pursued for the benefit of veterans and their families.

DFWA seeks to emphasise the interface between Veteran Legislation and external Administrative Review. It acknowledges changes are occurring in both.

- a. **Design.** Administrative review legislation should encourage improved decision making within the decision chain in DVA. It should not just address individual cases. It should provide a feedback mechanism of decisions which must enable data to identify broader systemic issues in DVA and Veteran Review Board. Such should in turn enable internal merit-based decision making to inform process improvement. There should be provision for Annual Reporting of the effectiveness of this interface by both the Administrative Review Body and the affected department, in this case DVA. Legislation should address responsibility and funding of this interface and the establishment of working agreements.
- b. **Supporting Parties.** The existing administrative review processes have been stressful for many in the veteran community. This must not be allowed to continue. The legislation for the replacement body for the AAT, must make provision for the support of vulnerable veterans and their families in the process. Several areas need consideration:
  - As stated in the joint submission, members of the administrative review body should have a comprehensive understanding of the unique nature of military service and associated mental and physical health issues.
  - Legal teams representing DVA often have no knowledge of the Unique Nature of Military Service. Also, the notion of beneficial legislation is foreign to their normal legal practice. Further, veteran advocate and professional legal support is often absent and the “level playing field” envisaged by Model Litigant principles. The Review body should have power to investigate the circumstances, including the support available to, and the vulnerability of the Veteran, and direct the provision of support by DVA where necessary to support model litigant principles. Such instances must form part of Annual Reporting by the Review Body.

## Conclusion

DFWA is an Australia-wide organisation established in 1959 to specifically foster the best interests and welfare of all members of the ADF and their families in any matter likely to not only affect them during their period of service but particularly afterwards as well.

In the latter post-service regard, the Administrative Appeals Tribunal has for many years played an important role in providing independent merits reviews of many administrative decisions made by the Government. Notwithstanding, there is wide support for change. Together with RSL National, the Defence Reserves Association and Soldier On we welcome the proposed objective to *enhance the quality of administrative decision making across government by creating feedback mechanisms in relation to significant issues and trends in matters before the new body.*

Yours Sincerely



**Ms Del Gaudry**  
National President  
Defence Force Welfare Association