VIETNAM VETERANS' FEDERATION of AUSTRALIA INC

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7 October 2016

Committee Secretary
Senate Foreign Affairs Defence and Trade References Committee
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Parliament House
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Senator Jacqui Lambie
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Submission to the Senate Foreign Affairs Defence and Trade References Committee Investigating DVA

On behalf of the Vietnam Veterans' Federation of Australia, I am pleased to provide a submission to the independent inquiry and investigation into the performance of the Department of Veterans' Affairs (DVA) with particular reference to:

i. the reasons why Australian veterans are committing suicide at such high rates,
ii. previous reviews of military compensation arrangements and their failings,
iii. the Repatriation Medical Authority's Statements of Principles, claims administration time limits, claims for detriment caused by defective administration, authorised medical treatment, level of compensation payments, including Defence abuse, as contained in all military compensation arrangements,
iv. to investigate the progress of reforms within DVA,
v. the administration of claims by DVA and the legislative or other constraints on effective rehabilitation and compensation for veterans, and
vi. any other related matters.

The following sections contain detailed comments on several of these terms of reference and an executive summary.

The VVFA looks forward to attending public sessions conducted by the Committee and would be able to present to the Committee if required.

I wish the Committee well in its investigations and deliberations.

Yours faithfully

James Wain
National President
Vietnam Veterans' Federation of Australia

Submission to the Senate Foreign Affairs Defence and Trade References Committee investigating DVA

Executive Summary

Introduction

The Vietnam Veterans' Federation of Australia (VVFA) welcomes the opportunity to contribute to the Senate Inquiry regarding DVA as its members are involved with or work closely with DVA.

The VVFA has a membership of about 10000 and an extensive national network which represents veterans of all conflicts from World War II to Afghanistan including Peacekeeping and Peacemaking Missions for former, as well as current, members of the Defence Force and their families. We have many years of experience helping with claims and advocacy in all of the Military Compensation schemes with Pensions Officers qualified under the DVA Training and Information Program (TIP). Despite its title, the VVFA welcomes, includes and supports all veterans from all conflicts.

The organisation's mission is to actively pursue the legal, political and social issues relating to the welfare of war veterans and their families.

VVFA Branches and Sub-Branches offer a range of services, support and activities including club houses, wood and metal workshops, radio programs, education courses, fitness programs, sporting opportunities, choirs and many other social activities.

Moreover, we are vigilant in our efforts to counter threats to veterans' welfare. VVFA is continually resisting Government parsimony, and reminding politicians and bureaucrats of their duty of care to veterans. In particular, the organisation concentrates on seeking justice for qualified personnel claiming compensation through the various channels of beneficial legislation, and providing advocacy services in the process of administrative review as required.

VVFA Relationship with DVA

VVFA recognises and supports the continuation of a Ministry and specialised public agency dedicated to the welfare and support of veterans. We believe that DVA provides a valuable and valued service to the veteran community. And while VVFA endorses the current administration reforms, the department needs to maintain continuous and close communication with all Ex-Service Organisations.

The following sections outline some of the main areas of concern VVFA has with DVA performance and policies and offers relevant recommendations to improve or redress our concerns.

Veteran Suicide

The Australian Government's response to the Senate's report on Mental Health of Australian members and Veterans (September 2016) contains promising efforts in suicide prevention funding and trials, a review of the effectiveness of allied strategies and work to improve the mental health care for veterans.

The 'reasons why' question posed by this Inquiry has not been answered by the Senate report and while these activities are welcome, VVFA considers that more needs to be done as indicated by the analysis in the attachment. In particular, VVFA offers the following recommendations to address this most worrying aspect of veterans' health:

- DVA establish a commission to provide quantitative and qualitative suicide data for ESO veterans and their families. The aim would be to build a reliable database leading to evidence-based policy.

- The Government establish a parliamentary committee to oversee the evaluation of the ADF Mental Health and Well-Being Plan, and outcomes of expenditures of VFCS and the Phoenix Australia Institute. Additionally, this committee should oversee the implementation of recommendations of the National Mental Health Commission review regarding the effectiveness of strategies addressing self-harm and suicide prevention for ADF current and former members.

- Senator Lambie be appointed Chair of this Committee to retain continuous and rigorous oversight of these areas.

Veterans Legislation managed by DVA

DVA is responsible for implementing, managing and governance of the VEA, SCRA and MRCA legislation affecting veteran welfare and compensation.

However, there are many inconsistencies in these Acts that create inequities in providing fair treatment for veterans claiming compensation, or indeed appealing against DVA decisions refusing claims.

Issues include variation in degrees of incapacity, treatment of Special Rate, quality of hearing aids, and accepted disabilities.

VVFA recommends a comprehensive review and standardisation of provisions across all legislation. Indeed, all current Acts should be consolidated as soon as practicable into an omnibus Act to rectify and simplify these current anomalies. Note that this review is long overdue and should not be controversial as it provides a more logical and reasoned approach to veteran support and compensation.

Veterans Claims – Processes and Problems

The processes and procedures involved in preparing, submitting, evaluating and defending veterans' claims for compensation through a structured appeals program are integral in providing welfare support to the veteran community.

While the procedures are well documented, the more recent use by DVA of Medico-legal firms to analyse and defend DVA's position against appeals has complicated and lengthened the process significantly.

Additionally, DVA have retained national law firms to represent their case in the AAT while VVFA representatives with Level 4 Advocate training, regardless of experience, are greatly disadvantaged when confronted by a barrister in the Tribunal.

It would be useful to review and adopt, where relevant, the operations of Veterans Affairs Canada whereby their Bureau of Pensions Advocates provide free legal assistance, including representation, for veterans who are unsatisfied with rejected claims to Veterans Canada.

VVFA recommends that the Committee examine the extent and efficiency of DVA's use of medico-legal consultants and private legal firms in representing and defending DVA decisions in the appeals process. Further, there is a need to provide free and expert legal representation for veterans, apart from Legal Aid, in the appeal process and the model of the VA Canada BPA arrangement deserves consideration.

Submission to the Senate Foreign Affairs Defence and Trade References Committee

Term of Reference

"The reasons why Australian veterans are committing suicide at such high rates"

Introduction

The Lambie Inquiry is to be commended for raising and tackling the issue of veteran suicide. It is a complex issue which the government, through the Department of Defence and Department of Veterans Affairs must accept primary responsibility.

The Government's positive response (September 2016) to the Foreign Affairs, Defence and Trade Committee's report on the Mental Health of Australian Defence Force members, and Veterans, indicates that the issue of suicide has high priority. Additional substantial funding is to be allocated to the Veterans and Families Counselling Service – with suicide prevention as a priority – and to the Phoenix Australia Institute which has been allocated funds to work collaboratively with experts to improve the quality of mental health care for Australian veterans.

The Government's response does not address the "reasons why" question that is the focus on the first Term of Reference of the Lambie Inquiry into the performance of the Department of Veterans' Affairs. This is a complex question which has no quick or easy answer.

Advice to VVFA is that the Australian Institute of Health and Welfare (AIHW), in conjunction with DVA, is shortly to release a study on veteran suicide. We look forward to receiving their report.

While the VVFA does not seek to apportion blame, it does seek to continuously improve the professional support and service due to all veterans and their families, where Defence service has resulted in illness or injury, including the prevention of self-harm.

Three Main Points

First, ADF members are screened psychologically and medically as part of a rigorous selection procedure. They are then systematically trained to cope with the high levels of physical and emotional demand necessary for sustained performance in operational roles.

It is therefore reasonable to hypothesise that the incidence of suicide within currently serving and ex-serving veterans should be *less than* for the general population, and this hypothesis is supported by research.[1] If it is the same, or

higher, then 'something' has intervened, and there is again, research evidence to support that it is higher than would be expected.[2]

A reasonable explanation is that the intervening variable is, for veterans, exposure to traumatic events in the range of war-like, peace-keeping, or humanitarian aid operations in which they have been involved. For veterans' families, exposure to veteran behaviour post-deployment and over the short to long-term time frame, may also answer the 'why' question as regards suicide of family members, but the interaction of other variables must also be considered.

Second, for all serving ADF members, the ADF Mental Health and Well-Being Plan, if implemented systematically, presents as best practice in suicide prevention. VVFA therefore argues that the focus of Senator Lambie's recommendations to the Foreign Affairs, Defence and Trade Committee should be on ex-ADF veterans.

Third, there appears to be no systematic, longitudinal strategy to keep track of all ex-service personnel and their health and this is critical for those 'at risk' of suicide. There is potential to do this through the population of veterans for whom DVA has accepted claims under the three legislative Acts relevant to the health and well-being of ex-ADF personnel, but not all veterans make claims. The about-to-be-released AIHW study may address these issues.

Numerous Ex-Service Organisations (ESOs) support both those veterans who have had DVA claims accepted, and those who are veterans who have not made claims. How effectively these organisations gather and maintain databases specific to veterans at risk of suicide is not known; at best the answer is probably "unreliably"; at worst it is probably "not at all".

How well can the issue of suicide within the ex-Service veteran population be quantified?

DVA Statistics

In the first instance, the suicide 'at risk' population will be predominantly from those veterans with mental health issues.

For the FYs 2012-13 to 2014-15, the total number (rounded) of accepted claims for psychological conditions is 6280.[3] This raw-figure total, rather than percentages of this or that, is the figure to concentrate upon.[4]

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[1] Australian National Service Vietnam Veterans: Mortality and Cancer Incidence 2005 (A DVA and Australian Institute of Health and Welfare report)

[2] O'Toole, B.I., Orreal-Scarborough, T., Johnston, D., Catts, S.V., and Outram, S. *Suicidality in Australian Vietnam Veterans and their Partners* Journal of Psychiatric Research (2015)

[3] Statistics compiled from DVA Annual Reports.

[4] It is also the case that chronic pain and disability can lead to suicide, and, added to that, is the conventional wisdom that veterans under-report psychological symptoms. A reliable prediction for those additional numbers has not been made by VVFA.

SANE Australia[5] claims that 15% of people seriously affected by mental illness die by suicide. The source of their figures is not stated. Better Health Victoria[6] claim "up to 1 in 10 people affected by mental illness kill themselves". Again there is no source given.

Those statistics thus predict a range of 630-900 of the 6281 veterans are at risk of suicide. VVFA contends that it is this sobering figure that must have the attention of the Foreign Affairs, Defence and Trade Committee, and through it, the Government.

Observation

In studying the mortality of Vietnam veterans, DVA and the AIHW developed a Nominal Roll of Vietnam Veterans, and matched that roll with the National Death Index. While that study was able to establish a suicide *rate*, it did not and could not, establish *reasons* for suicide.

Anecdotal evidence suggests that there are no current reliable data[7] for the number of veterans who have committed suicide. If those data are available, they may provide needed statistical evidence regarding the suicide *rate* of veterans, but they will not provide a *reason*. Hopefully, the about-to-be-released AIHW study will shine a much-needed light on the contemporary veteran suicide rate.

The US Veterans Affairs agency routinely tracks veteran suicide, and in the UK, the National Health Service is able to track the mental health of veterans. Australia needs to improve its performance and match the professional approach of both the UK and the US.

Summary

Based on DVA statistics, the raw number of veterans 'at risk' of suicide is high and, by extension, the 'at risk' situation for family members is also high.

The question as to why an individual commits suicide is always to the forefront, as is the question as to whether it could have been prevented. The first question is complex and difficult to answer. With reference to the second question, the focus on suicide prevention by both the ADF and the DVA presents as systematic and comprehensive, and is supported by VVFA.

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[5] www.saneaustralia.org

[6] www.betterhealthvic.gov.au

[7] Beyond those data for Vietnam veterans : Australian National Service Vietnam Veterans: Mortality and Cancer Incidence 2005 (A DVA and Australian Institute of Health and Welfare report)

Recommendations

VVFA recommends that the Lambie Inquiry make the following recommendations to the Foreign Affairs, Defence and Trade committee.

1. As a matter of priority, DVA commission substantive quantitative and qualitative research to establish suicide data for the ex-Service veteran population and their immediate families. This will not be able to be done quickly and results will be medium to long term, but it is the only way to ensure some level of reliable database and consequent evidence-based policy.

2. The Government establish a parliamentary committee to oversee the evaluation of the ADF Mental Health and Well-Being Plan, the outcomes of expenditure allocated to the Veterans and Families Counselling Service, and the outcomes of expenditure allocated to Phoenix Australia Institute.[8]

3. That committee also oversee the implementation of recommendations made by the National Mental Health Commission, following its review into the effectiveness of self-harm and suicide prevention strategies for current and former serving members of the ADF.[9]

4. Given Senator Lambie's leadership in this area, it is further recommended that she be appointed Chair of the relevant committee, should Recommendation 2 be accepted.

[8] See Australian Government Response to the Foreign Affairs, Defence and Trade Committee report on the Mental Health of Australian Defence Force Members and Veterans, September 2016.
[9] See Footnote 8

Submission to the Senate Foreign Affairs Defence and Trade References Committee

Term of Reference

Veterans' Legislation managed by DVA

Introduction

DVA is responsible for the implementation, management and governance of three major Acts affecting the welfare and compensation of Australian veterans. These are the Veterans Entitlement Act 1986 (VEA), the Safety, Rehabilitation Compensation Act 1988 (SRCA) and the Military Rehabilitation and Compensation Act 2004 (MRCA).

Several anomalies or inconsistencies have been identified in the application of these Acts in determining necessary compensation for veterans who have suffered some form of injury or damage while a member of the ADF. Examples of these issues are shown in the following sections.

Measurement of Incapacity

Under the VEA, injuries and diseases do not have to meet a minimum degree of incapacity indicated by percentages or impairment points. However, SRCA uses a 'whole of body' impairment system and a minimum of 10% of 'whole of body' impairment for an injury or disease must be reached before compensation is awarded. Similarly, MRCA contains an 'impairment points system' requiring a minimum of 10 impairment points before compensation is triggered. VVFA considers that the VEA provides the fairest arrangement for veterans.

Special Rate Treatment

Another issue relates to the different treatment of Special Rate (Totally and Permanently Incapacitated) under VEA and MRCA. When MRCA was drafted, SR (TPI) was included as an option and meant to mirror the Special Rate included in the VEA. However, while the VEA rate is not offset by Military Superannuation, the MRCA rate is offset by the Commonwealth contribution to Military Superannuation. DVA have advised that most SR cases investigated by the MRCC resulted in a negative sum being awarded. We understand that only one veteran has opted for SR under MRCA.

Hearing Aids

Before the chapter covering ADF personnel was removed from the SRCA managed by Comcare (and used by the MRCC), reasonable medical expenses were paid to relevant personnel. This arrangement still applies to public servants with entitlement under SRCA through Comcare. This means that public servants can access better quality hearing aids where their hearing services provider deems necessary. DVA then put the case that because veterans' SRCA conditions were being looked after by the MRCC it would be advantageous if White Cards were issued meaning that veterans would not have to gain DVA consent before buying a hearing aid. While this is more convenient administratively, it disadvantages affected veterans as the White Card only provides access to the same level of hearing aid as that available for VEA/MRCA members and Medicare beneficiaries.

Accepted Disabilities

DVA delegates are using SRCA & MRCA accepted disabilities to deny Special Rate claims under the VEA on the basis that the SRCA/MRCA disabilities mean that the VEA claim does not meet the 'alone test' [under VEA s24 1 (b)]

"Streamlining" of Medical Conditions for Acceptance of Liability

In October 2016 the Minister announced a welcome streamlining of 13 medical conditions for acceptance under both the VEA and MRCA. All 13 conditions are covered for streamlined liability under MRCA. Under the VEA, five of the 13 are not covered by streamlining, "but may be accepted after investigation, depending on evidence of a link to service". An example of one of the medical conditions is "Shin Splints", a common enough condition within the ADF.

The imposition of a higher standard of evidence for one group of veterans vis-à-vis another, and between one Act and another, is not only inconsistent, it is also confusing to veterans.

Inconsistencies between the Acts

The following matrix shows some of the differences inherent in the three main Acts covering Veterans claims and appeals which need to be addressed to ensure fairness for all applicants.

Issue	VEA 1986	SRCA 1988	MRCA 2004
Funeral Benefits	$2000	$11654	$11654
Special Rate –offset by Commonwealth Contribution to Superannuation?	No	N/A	Yes
Min 10% whole body impairment for each	No	Yes	No

condition?			
Recent change to Hearing Aid availability?	No	Yes	No
10 impairment points for each injury/disease	No	No	Yes
Streamlining of 13 diagnosed medical conditions (October 2016)	No to 5/13	N/A	Yes to 13/13
Serious inconsistences by RMA changes to SOPs on Prostate Cancer. Further specific details and evidence of changes are available as required.			
DVA using accepted conditions under SCRA and MCRA to disallow TPI claims under VEA, even though there is only one employer			

Recommendations

VVFA recommends the following:

1. Comprehensive review and comparison of all three Acts and identification of same or similar provisions affecting veterans, including contemporary veterans.

2. Revise legislation to ensure consistency and note savings and efficiencies that accrue in standardizing provisions or procedures that benefit veterans.

3. Amalgamate existing ACTs into a compendium Bill for consideration by Parliament and enactment as soon as practicable, noting opportunities for retrospectivity. The VVFA considers that this review is long overdue as it provides a more logical and reasoned approach to veteran support and compensation for service.

Term of Reference

Veterans' Claims and Appeals – Legal Processes and Problems

Introduction

The Ex Service Organisations including the VVFA incorporate training for advocacy in support of claims by veterans for pensions or other compensation resulting from military service. This training is sponsored by DVA. However, there are significant concerns regarding the processes and procedures involved in the appeals regarding representation, outsourcing by DVA of medical and legal evidence and overall DVA governance of these areas.

Use of Medico Legal Firms

In the past, veterans and DVA would arrange for their own specialists to provide evidence and information to enable the merits of a claim to be evaluated during an appeal. This proved to be too costly for both parties and the Government authorised the creation of Statements of Principles (SOP). An SOP would detail one or more factors that need to be met for a particular condition to be accepted. For example, in the case of hearing loss, if a veteran had been exposed to gunfire without ear protection, hearing loss would be accepted.

This system has worked well for many years for VEA 1986 claims. However with the introduction of SRCA 1988 and MRCA 2004, DVA began engaging representative firms such as Medico Legal Consultants of Australia to analyse and effectively defend their interests. This firm, in particular, works for insurance companies, Comcare and other organisations that provide compensation cover for their employees.

As noted earlier, the difference between VEA and SRC/MRC Acts is that VEA does not have a provision requiring proof of Permanent Impairment whereby both SRCA/MRCA have these provisions. VVFA believes strongly that ADF members should not be subject to legislation that applies to public servants. It is disconcerting that politicians refer constantly to the unique nature and value of military service but pass legislation that is detrimental to veterans in its application.

Appeals

Initially, at appeals before the AAT, DVA provided lawyers from their own Legal Branch to put their case at the hearing. Level 4 Advocates from the VVFA and other ESOs who had received a week's training would represent the veteran on these occasions. This was a satisfactory arrangement in most cases.

In recent years DVA have retained large national law firms such as Sparke Hellmore to present their case to the AAT. A barrister would then be briefed to

represent DVA at the Tribunal. Notwithstanding, the veteran would still be represented by a Level 4 Advocate, leading to a most uneven, unfair and most unsatisfactory process.

If a veteran wants to retain a solicitor or barrister, then the veteran needs to pay. DVA maintain that a veteran can get Legal Aid, but it is the case that the Federal Government has slashed hundreds of millions of dollars from the Legal Aid budget, and States and Territories tend to fund cases with the possibility of gaol. Cases involving veterans' appeals have no priority. Veterans used to have a percentage of the legal aid allocated to States and Territories for their exclusive use, but this no longer pertains.

The Bureau of Pensions Advocates (BPA) within Veterans Affairs Canada is a unique, nation-wide organization of lawyers that provides free legal help for people who are not satisfied with decisions about their claims for disability benefits. This model would address the legal imbalance currently occurring in veteran appeals in Australia.

VVFA believes that although the Commonwealth is supposed to act as a Model Litigant this is not the case and VVFA contends that whatever level of legal expertise DVA engages should also be available to the veteran on a pro bono basis.

Prostate Cancer Etiology

Advocates and DVA delegates utilise SOPs in making and deciding claims for a range of diseases and injuries including prostate cancer. The Repatriation Medical Authority (RMA) issues SOPs and they are disallowable instruments. If Ex Service organisations and other interested parties wish to challenge the validity of published SOPs they can contact the Special Medical Review Council (SMRC), which has the power to direct the RMA to amend SOPs. Both bodies utilise eminent Professors of Medicine with different areas of expertise.

The late Tim McCombe, former National President of the Vietnam Veterans' Federation of Australia lobbied the SMRC for years to have smoking included as a factor for Prostate Cancer. His efforts were rewarded in 2012 when the SMRC directed the RMA to include smoking as a factor. SOPs No. 53/2012 (operational service) and 54/2012 (non-operational service) included 40 pack years of smoking as a factor in both. However in 2014 the RMA produced SOPs No. 53/2014 (operational) and 54/2104 (Non-operational) with 53/2014 downgraded to 20 pack years for clinical worsening only. Smoking was removed entirely from 54/2014.

The VVFA made a submission to the SMRC in August 2015 submitting that the RMA was in error and seeking reinstatement of the original provision. On 16 September 2016, after lengthy and extremely protracted deliberations, the SMRC directed the RMA to include smoking as a factor for clinical worsening in both operational and non-operational SoPs.

Complex MRCA Processes

See Annex A.

DVA Governance

A recent case involving an AAT appeal on the matter of child care for a DVA client with a psychiatric disorder is cause for concern. After discussion with the Policy area in DVA a decision was made to authorise 2 days childcare per week for the rehabilitation of the client. This information was provided to the area in Queensland which looks after rehabilitation. The VVFA advocate for the client conducting the AAT appeal contacted the Sparke and Hellmore solicitor running the DVA case and requested a consent order to terminate the appeal. However this request was denied. The resultant confusion indicates some tension or other issues within the policy and legal areas of DVA which reduce the efficacy of the internal administration of the department which need to be addressed as a matter of priority.

Another issue of concern is that there has been a recent occasion whereby the DVA policy section's ruling has been over-ruled by DVA Legal Section creating uncertainty to the veteran. This is an ongoing concern.

Recommendations

VVFA recommends the following:

1. The Committee examine the extent and efficiency of DVA's use of medico-legal consultants and private legal firms in representing and defending DVA decisions in the appeals process.

2. There is a need to provide free and expert legal representation for veterans, apart from Legal Aid, in the appeal process.

3. The Inquiry should review and adopt, where relevant, the operations of Veterans Affairs Canada whereby their Bureau of Pensions Advocates provide free legal assistance, including representation, for veterans who are unsatisfied with claims rejected by Veterans Affairs Canada.

4. DVA resolve their internal communications regarding the efficiency of policy versus legal advice regarding a veteran's appeal and eliminate any subsequent distress or delay to a veteran.

Annex A to VVFA Submission

MRCA 2004
CONTENTION FOR MR X
NSM X – UNDER ADR PROCESS

Introduction

On 2 July 2012, Mr X received a Boostrix vaccination as part of a routine ADF medical. The Boostrix was a triple antigen for Tetanus, Whooping Cough and diphtheria. He had an adverse reaction within 12 hours.

He was consequently diagnosed with Gingivitis, Oral Lichen Planus (OLP) and Chronic Fatigue Syndrome (CFS). Due to the effects of these debilitating illnesses he was later diagnosed with Adjustment Disorder with Anxiety (ADA).

He lodged a claim for these conditions on 7 October 2014 and the claim was refused on 4 March 2015.

Appeal Process

MRCA s29: This appeal is based on s29 i.e. unintended consequences of medical treatment by the ADF. As such the Statements of Principle (SOP) regime is not applicable.

Applicable Test: For peacetime service the balance of probabilities applies.
Diagnosis: The diagnosis for all four of the claimed conditions has been accepted by the delegate but the claim was denied because the causal link to service was not accepted.

Issues and Medical Opinion: At issue is the causal link between eligible service and the four rejected conditions. I submit that the Boostrix vaccine was the medical treatment covered by s29 and that the adverse reaction to this vaccination comprised the unintended consequences for the development of Ginginvitis, OLP and CFS. I further submit that ADA is a sequala condition caused by having Gingivitis, OLP and CFS. This condition (ADA) was compounded by the treatment Mr X received from his Regiment, the ADF and those in the medical fraternity who seemed more afraid of being sued than providing treatment.
Boostrix is simply the brand name of the vaccine, it is also known as TDap.
This VRB appeal was upheld in Nov 2016.
The appeal was successful, but far from being the conclusion of a 3 year 4 month saga, it was only the beginning.

It is conceded that Mr X's conditions were unusual albeit similar reactions had occurred.

Mr X has had to battle wrong decisions by DVA staff. For example he was refused reimbursement for medical expenses incurred in treating his

conditions for the period prior to his claim in 2015. This has finally been adjusted, only recently, after strong representation.

He has been rejected for Incapacity Payments on the grounds that he took a voluntary redundancy from work (the Australian Institute of Sport). There are precedent court cases which will be used to appeal this decision.

He has been rejected for Permanent Incapacity on the grounds that “all reasonable rehabilitative treatment has [not] been undertaken”. Again there are precedent court cases that will be used to appeal this decision.

Conclusion

The processes to convert acceptance of liability under MRCA are overly complex and rigidly enforced. It usually takes another appeal process to force the department to change unfair decisions.

This case needs to be considered against the DVA claim to apply a Veteran Centric approach in dealing with veterans.

Mr X has consented to the release of the information contained in this Annex, is happy to reveal his name if required. As his Advocate I am ready to supply more information on this case.

James Wain
Advocate Level 4