

# **Representatives of Veterans and Other Claimants**

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# Policy

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## 1. Purpose

1.1 This Policy provides guidance on third party representatives supporting a **veteran** or **other claimant** in their dealings with Veterans' Affairs. It should be read together with the separate paper on:

- *Persons with Legal Authority to act for a Veteran or Other Claimant.*

## 2. Legislative Reference

2.1 Sections 207-210 of the Veterans' Support Act 2014 (the Act).

## 3. Eligibility for a veteran's representative

3.1 A veteran's or other claimant's representative is a third party (relative, spouse, friend or other individual such as an advisor from the Royal New Zealand Returned and Services' Association) who has the veteran's or other claimant's authority to support them in their dealings with Veterans' Affairs regarding specific functions and services under the Act.

3.2 The veteran or other claimant who appoints a representative(s) is capable of making his/her own decisions. The support of a representative may be required due to an **impairment** (e.g. a hearing disability) or a lack of confidence to discuss claims or concerns with Veterans' Affairs. A representative(s) may assist the veteran for an extended period, or may provide the veteran with one-off support (**see also section 6**).

*Sections 207- 210 of the Veterans' Support Act 2014*

## 4. What the representative's role does not cover

4.1 The appointment of a representative(s) does not:

- override any active Enduring Power of Attorney (EPA) or Power of Attorney that the veteran or other claimant has in place to act in respect of their health or welfare
- provide the representative(s) with any legal authority within the limits of the Act to receive any payments or entitlements on the veteran's behalf.

4.2 The veteran's or other claimant's representative(s) may not:

- Sign off or make the veteran's or other claimant's decisions on their behalf (these must be signed by the veteran or other claimant)

- receive correspondence on the veteran's or other claimant's behalf (all Veterans' Affairs' correspondence will be addressed and sent to the veteran or other claimant, though will be copied to the representative)
- sign applications on behalf of the veteran
- receive any payments or entitlements on the veteran's behalf
- access the veteran's or other claimant's service, medical or other records without the specific authority of the veteran or other claimant.

*Sections 207-210 of the Veterans' Support Act 2014*

## **5. What the veteran's representative's role may cover**

5.1 A veteran's representative may on behalf of a veteran or other claimant, according to the authority given by that veteran or other claimant, discuss with Veterans' Affairs:

- a single aspect of a claim (e.g. timing of reassessment of a medical condition)
- the duration of a single claim (e.g. how long vocational rehabilitation will be provided)
- the duration of all existing claims
- the veteran's or other claimant's care and welfare.

## **6. Process for appointing a veteran's representative**

6.1 When considering a request for appointment of a permanent veteran's representative, Veterans' Affairs must check whether an Enduring Power of Attorney (EPA) is in place for the veteran or other claimant and, if one is in place, what its scope is (welfare, finance etc). This question will be included in the Appointment of Representative form as set out below.

6.2 A veteran or other claimant who wants to appoint a permanent representative to support them in their dealings with Veterans' Affairs should provide a completed Appointment of Representative form provided by Veterans' Affairs. A veteran or other claimant may appoint a number of representatives with different roles, but these must be clearly defined in the appointment authority document.

6.3 The appointment authority must set out:

- Whether an Enduring Power of Attorney (EPA) is in place for the veteran or other claimant
- the nature of the veteran's relationship with the representative

- the extent of the role that the veteran or other claimant wants the representative to have
- whether or not the representative has the written authority of the veteran or other claimant to access any records which Veterans' Affairs holds about the veteran or other claimant as per section 45 of the Privacy Act 1993

6.4 Once received, Veterans' Affairs will scan the application and any attached documents and add them to the veteran's or other claimant's records. The form will include the representative's identifiers (name, address, date of birth, contact number etc) and outline what the representative is entitled to do on behalf of the veteran. The representative must provide evidence of his/her identity such as a passport or driver's licence copy, unless Veterans' Affairs already holds the information or knows the person well. If this is not provided, Veterans' Affairs may not accept the Appointment of Representative form.

6.5 The veteran's approval for a representative to provide one-off support (e.g. to conduct one telephone conversation with Veterans' Affairs) may be given to Veterans' Affairs verbally rather than by written authority as described above. However, Veterans' Affairs must record that this approval was given.

## 7. Suspension of the representative's authority

7.1 The veteran or other claimant can end his/her permanent representative's authority at any time. This may be done verbally or in writing, and in either case should be recorded on the veteran's file. The authority will automatically end at the veteran's or other claimant's death.

## 8. Representative's Expenses

8.1 Veterans' Affairs is not responsible for covering any expenses of the veteran's or other claimant's representative.

## 9. Coercion or Duress

9.1 If the veteran or other claimant has approached Veterans' Affairs with concerns that the representative is exerting undue influence on the veteran or other claimant, or a third party expresses such concern, the Case Manager will discuss the matter with the Team Leader Case Management and an appropriate course of action will be worked out. Possible responses may include referring the veteran or other claimant to free and confidential advocacy and information services such as those provided by Age Concern, or to the Community Law Centre or Citizens Advice Bureau, or to another family member or third party.

9.2 Where the concern relates to coercion, duress, or abuse on the part of the representative (i.e. the veteran or other claimant may be being forced against his/her will), Veterans' Affairs will contact the Police (**see separate paper on Investigations**).

9.3 In either of the situations described in paragraphs 9.1 and 9.2 above, Veterans' Affairs may temporarily suspend taking instruction from the representative until the matter is cleared up.

9.4 A number of things may trigger Veterans' Affairs' concern that the representative is exercising undue influence, coercion, duress or abuse, including:

- concern about the validity of any of the representative's assertions
- multiple family members pressing different points of view
- the representative using information about the veteran or other claimant without their authority
- a concerned third party informing that the veteran or other claimant is distressed by pressure from the representative.

## 10. Living Overseas

10.1 The policy for Veteran's Representatives applies equally to all New Zealand veterans, irrespective of their country of residence.

## 11. Definitions

11.1 A **power of attorney** is a formal instrument in which one person, the donor or principal, empowers another, the attorney or donee, to act as a representative for the purpose or purposes stated in the instrument.

11.2 **Enduring power of attorney.** The capacity to create an enduring power of attorney was established by the Protection of Personal and Property Rights Act 1988. The purpose of the legislation is to enable the donor of a power of attorney to appoint a chosen attorney to manage his or her affairs in the event that the donor should become mentally incapable after conferring the authority. An enduring power of attorney may be created in relation to the donor's property, or personal care and welfare, or both kinds of powers may be given.

## Glossary

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### **child** [section 7]

In relation to a veteran,–

- (a) means a natural child of the veteran; and
- (b) includes–
  - (i) an adopted child of the veteran; and
  - (ii) a child of whom the veteran is or has been a guardian; and
  - (iii) a grandchild or a whāngai of the veteran in relation to whom the veteran acts or has acted as a parent or guardian; and
- (c) includes any other child who would ordinarily be regarded as a child of the veteran because the veteran–
  - (i) is or has been the spouse or partner of one of the child’s parents; and
  - (ii) acts or has acted as a parent of the child.

### **dependant** [section 7]

In relation to a veteran, means any of the following persons:

- (a) a person (not being the spouse, partner, or child of the veteran) who –
  - (i) is under 18 years of age; and
  - (ii) is wholly or primarily dependent on the veteran for financial support; and
  - (iii) ordinarily resides with the veteran;
- (b) a person (not being the spouse, partner or child of the veteran) who –
  - (i) is 18 years of age or more; and
  - (ii) is under the care of the veteran; and
  - (iii) ordinarily resides with the veteran because the person is unable to live independently of the veteran due to disability, illness or advanced age;
- (c) a person who –
  - (i) is the child of the veteran; and
  - (ii) is 18 years of age or more; and
  - (iii) is under the care of the veteran; and
  - (iv) is unable to live independently of the veteran due to physical or mental infirmity.

### **guardian** [section 7]

Has the same meaning as in section 15 of the Care of Children Act 2004.

### **impairment** [section 7]

Means a loss or abnormality of psychological, physiological, or anatomical function or structure.

### **member of the armed forces** [section 7]

Means a person who is or has been a member of the New Zealand armed force raised by the Governor-General on behalf of the Sovereign,–

- (a) whether in New Zealand or elsewhere; and
- (b) whether before or after the passing of this Act.

### **other claimants** [section 7]

Means–

- (a) persons who have served as members of the armed forces before 1 April 1974 and whose injury or illness was caused by, contributed to by, or aggravated by routine service in New Zealand or overseas; and
- (b) spouses and partners of veterans; and
- (c) children of veterans; and
- (d) dependants of veterans; and
- (e) persons (other than the spouse or partner, or a child or dependant, of the veteran) who provide non-professional support to veterans for the purposes of section 107.

**partner** [section 7]

Means a civil union partner or a de facto partner.

**qualifying operational service** [section 8]

Means–

- (a) service in any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; or
- (b) service on any deployment declared to be operational service under section 9.

**qualifying routine service** [section 8]

Means service in the armed forces before 1 April 1974 that is not qualifying operational service.

**qualifying service** [section 8]

Means–

- (a) qualifying operational service; or
- (b) qualifying routine service.

**veteran** [section 7]

Means–

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; or
- (b) a person:
  - (i) who has been:
    - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
    - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
  - (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
  - (i) section 19 (but only if the person was a member of the forces);
  - (ii) section 55 or 56;
  - (iii) Parts 4 and 5.

**whāngai** [section 7]

Means a child adopted by the veteran in accordance with Māori custom.