

Warrant of fitness

**An independent review of the
Veterans' Support Act 2014**

Professor Ron Paterson

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Disclaimer

This independent review does not represent government policy or the views of any organisation and should be not relied on as legal advice.

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Foreword

I am pleased to deliver my report *Warrant of Fitness*, an independent review of the operation of the Veterans' Support Act 2014. It has been a great privilege to undertake this work.

I would like to thank everyone who contributed to the review, particularly the veteran community and Veterans' Affairs staff. They were most generous with their time and thoughtful in their views.

I trust my report provides a platform for improvements to support for veterans and their families.

A handwritten signature in black ink that reads "Ron Paterson".

Professor Ron Paterson
Independent Reviewer

Overview

This report, titled *Warrant of Fitness*, is my assessment of how the Veterans' Support Act 2014 is working in practice. Two years on since it came fully into force, has the new law led to a fair, simple and modern system for rehabilitation and support of veterans and their families?

The review has not simply been a technical exercise. In talking to veterans, their families and support organisations, I learned a great deal about their shared experiences, how they live and what they value – and especially about how veterans feel they are perceived and treated by the organisations whose job is to support them. I came to understand in a very direct and personal way how their service for New Zealand has affected their lives, and also how the Act impacts on them and their families. This report is dedicated to all those individuals.

The review team heard from far more people than we anticipated. Their submissions canvassed a wide range of issues. Indeed, those issues extended beyond the scope of the review's terms of reference.¹ One frequently discussed issue was eligibility for entitlements, which deserves a section of its own at the conclusion of the report.

As well as examining issues raised during extensive consultation with veterans and stakeholders (including the Royal New Zealand Returned and Services' Association and the No Duff Charitable Trust), the review looked at matters raised with the Minister for Veterans by the Veterans' Advisory Board. The review also evaluated various technical problems that Veterans' Affairs New Zealand had encountered with the Act, drew on data available at the time, and considered the approaches of four other countries: Australia, Canada, the United Kingdom and the United States.

I have grouped the resulting material into three broad areas in this report:

- more focus on the needs of veterans and families
- making the Act fairer and easier to understand and implement
- making the overall support system more workable.

The review has given veterans and their families the opportunity to express their views about how, practically speaking, the Act is performing. They raised what they considered to be some fundamental questions about the Act that still need to be addressed. I hope this review sets a baseline for future reviews of, and improvements to, the Act. If it prompts statutory amendments to the Act, I recommend another review within five years of those changes.

¹ See appendix A.

Key findings

The Act introduces a more modern regime for rehabilitating and supporting veterans. However, that regime does not put veterans first, nor is it family-friendly.

Implementation of the Act has resulted in significant teething problems and has placed heavy demands on a downsized organisation. This has resulted in less contact with veterans and unacceptable delays in making decisions about applications and processing claims.

Veterans, their families, sector organisations and Veterans' Affairs staff all find the Act and accompanying processes complex and cumbersome. It is difficult for veterans and their families to find their way into and navigate their way through the veterans' support system. Improvements to advocacy support would help veterans and families navigate the system.

Veterans' Affairs has made major changes to its policies and procedures – and will make more – to improve how it supports veterans. Most veterans speak highly of the individual staff at Veterans' Affairs. But more needs to be done to ensure veterans and their families are the prime focus. This will require better communication with veterans and their families, including improved reaching out to them, whether by phone or in person (especially valued by older veterans) or the internet and social media.

Transition from the New Zealand Defence Force to civilian life is a key critical point in the life course of service personnel. It is essential that veterans are identified, to enable Veterans' Affairs to make contact and plan ahead, and offered effective transition support when they leave the forces.

The needs of veterans and their families are changing, most notably in response to mental health conditions, which are receiving increasing recognition. Modern-day deployments can expose service personnel to new psychological hazards and environmental threats. Families and whānau can also feel strong and lasting effects from veterans' service-related physical and mental health conditions. Their voices need to be heard, and changes made, including to the Act, so Veterans' Affairs can consider family members' needs and offer necessary support.

Veterans' Affairs should adopt a holistic approach in response to these changing needs, particularly at times of distress and crisis. As much as possible, it should provide all-embracing support. It must show initiative and ensure an integrated approach for veterans with the greatest and most complex needs. More flexible funding arrangements and more flexibility within the Act would help Veterans' Affairs achieve this goal.

The agencies involved in administering the veterans' support system (including Veterans' Affairs, the wider Defence Force and other relevant government agencies) also need to work together more effectively, to ensure that the system is well co-ordinated, seamless for veterans and more than the sum of its individual entitlements.

Entitlements under the Act are generally more generous than the state support available to non-veterans. The difference, quite properly, is in appreciation of the contribution made by veterans. However, where this is not the case, veterans' entitlements need to be reviewed and adjusted upwards.

Veterans strongly support the veterans' independence programme, which enables users to live independently at home and be part of the local community. However, services available through the programme should be expanded, and it should offer a more flexible, personalised approach. Travel assistance should be rationalised to reduce inequalities and to lessen the administrative burden on veterans and Veterans' Affairs staff.

To simplify and improve current advisory processes, the Veterans' Health Advisory Panel should be merged into a new Veterans' Advisory Board and the Veterans' Medical Research Fund grant process should be transferred to the Health Research Council.

The Act needs amendments, mainly technical or to clarify points of law, and to make it fairer and easier to understand and implement. In the meantime, a guide would help veterans, their families and advocates understand the Act.

Eligibility is outside the scope of this review. However, the veteran community is deeply dissatisfied about who qualifies for entitlements, especially the differences between the Act's Scheme One and Scheme Two. The issue of who is considered an eligible veteran is a fundamental one that deserves re-examination.

Main recommendations

The complete set of recommendations can be found on page 107. The following recommendations will resolve the most significant problems with the veterans' support system and can largely be put into effect without legislative change.

1. Increase the resources and support for Veterans' Affairs so it has:
 - a) the operational capability and capacity to carry out the job it was set up to do; and
 - b) a flexible fund for programmes, services and support on top of those offered through the Act.
2. Ensure that veterans are identified and offered effective transition support when leaving the Defence Force for civilian life.
3. Take a holistic, integrated approach to meeting veterans' needs, including early intervention and wrap-around support.
4. Consult family members about their needs and how they could best be met, in preparation for service development and legislative changes.
5. Expand the range of support services to enable independent living, and ensure a flexible, individually tailored approach to providing these services.

6. Improve communication with veterans and the veterans' community.
7. Write a plain English guide to the Act for veterans.

When the legislative agenda permits, the Act should be simplified and streamlined. Future amendments should make the Act more principled, permissive and flexible.

Acknowledgements

I thank everyone who has participated in the review. It has been a great privilege to hear from you. Many people have shared their personal experience, thought carefully about the issues and proposed possible solutions. In particular, I thank all those people who turned out for consultation meetings and focus groups, and who sent in written submissions – veterans, serving and former Defence Force staff, their families, representative organisations, service providers and advocates and other supporters. Without your input, this review would not have been possible.

This review has been a team effort. I acknowledge the invaluable work of Kylie Clode and Helen Lockyer, who provided secretariat support, attended key meetings and helped to research and draft this report.

I am particularly grateful for the advice and help of the Head of Veterans' Affairs, Bernadine Mackenzie, and her staff, the chairs and members of the veteran advisory and appeal boards, the wider Defence Force, particularly Vice Chief of Defence Force Air Vice-Marshal Kevin Short, the Royal New Zealand Returned and Services' Association (RNZRSA) and No Duff. I thank Crown Law for providing access to submissions on the Wai 2500 Military Veterans Kaupapa Inquiry. Thank you to the Rannerdale and Ranfurly Veterans' Rest Homes for hosting me.

I acknowledge the insights of Sir Geoffrey Palmer QC regarding his 2010 Law Commission report, which led to the repeal of the War Pensions Act 1954 and enactment of the Veterans' Support Act 2014.

I express my thanks to everyone who helped with our public consultation meetings, in particular the local RSAs that hosted us. Thank you also to Warrant Officer Jack Rudolph for providing cultural support, Te Puni Kōkiri for its advice, and Ngā Taonga ā Ngā Tama Toa Inc for showing the team around C Company House, which commemorates the Māori (28th) Battalion.

Thank you to staff at the Australian Department of Veterans' Affairs who hosted and briefed me in Canberra, and to the Australian Repatriation Medical Authority, the United Kingdom Ministry of Defence, the United States Department of Veterans Affairs and Veterans Affairs Canada for sharing valuable knowledge.

Background

Origins of review

Veterans have received pensions and support under various legislative schemes since the 19th century, beginning with the New Zealand Land Wars and the Boer War. The last major legislative change in the 20th century was the War Pensions Act 1954. It took another 60 years for further reform, when the Veterans' Support Act 2014 repealed the War Pensions Act 1954. Three agencies administered veterans' entitlements and war pensions before the establishment of Veterans' Affairs in 1999. They were the Pensions Department (1913-1939), the Social Security Department (1939-1972) and the Department of Social Welfare (1972-1998).

The Veterans' Support Act 2014 was such a significant departure from the Act it replaced that Parliament included a provision requiring that the Chief of Defence Force review it after two years, to make sure it was operating as intended.

The Chief of Defence Force commissioned me to undertake the review and report back by 23 March 2018.² My appointment as an independent reviewer has enabled an impartial perspective on how the Act is working. The Chief of Defence Force will consider my report and forward it to the Minister for Veterans for tabling in Parliament. The Government will then consider the report and decide whether to make any changes to the Act. The report will also help Veterans' Affairs develop new policy and practices.

In reviewing the Act's operation and considering whether any amendments are necessary, I have been required by the terms of reference to examine:

- any parts of the Act that need to be clarified
- how to ensure the Act caters for the changing nature of the veteran population
- whether the Act provides sufficient flexibility for Veterans' Affairs to deliver fair and reasonable entitlements to veterans and their families
- any technical barriers that need to be removed, or any errors and omissions that need to be corrected
- how to ensure consistency throughout the Act
- other matters raised by veterans and other stakeholders.

The terms of reference preclude recommendations that would significantly change the Act's purpose or coverage. In some cases, therefore, I have not recommended specific changes, but rather suggested the Government consider investigating possible options for change.

² The volume of submissions made it necessary to extend the reporting date.

Origins of new Act

Law Commission review

The Act was enacted in 2014 after a review of the War Pensions Act 1954 by the Law Commission. The replacement legislation was the result of years of careful input and consideration by the commission, veterans and their families, representative and interest groups, government agencies and political representatives. The commission also drew on approaches in Australia, Canada, the United Kingdom and the United States.

The commission's review found the War Pensions Act 1954 to be outdated and unable to meet the needs of veterans, who by then had a much wider range of demographics and service histories. The commission's report contained 170 recommendations, most notably:³

- replace the War Pensions Act 1954 with a fair and modern scheme that meets the needs of a diverse veteran population
- establish two schemes for two groups of veterans
- give veterans and family members adversely affected by service more support compared with that offered to other citizens, as acknowledgement of the impact of being placed in harm's way in the service of the state
- emphasise treatment and rehabilitation
- align the new legislation with the Accident Compensation Corporation scheme
- base the new legislation on:
 - acknowledgement of the community's responsibility for veterans' service-related injury, illness or death
 - provision of fair entitlements
 - a benevolent approach to claims
 - an efficient administration of claims.
- incorporate a new decision-making framework based on the Australian Repatriation Medical Authority's statements of principles.

Government response

The Government accepted most of the report's recommendations. In some areas, it took a more generous approach. For example, it agreed that independence assistance should be available to a broader group of veterans, not just those receiving a disablement pension. Elsewhere, it felt the commission had been too generous or inconsistent in its recommendations. For example, it decided not to adopt the recommendation to provide free healthcare for veterans from the age of 80, regardless of whether they have a 'service-related' condition.

³ Law Commission, *A New Support Scheme for Veterans: A Report on the Review of the War Pensions Act 1954* (2010).

How the Act works

The Act aims to ensure veterans get the entitlements, services and support available to them so they can lead a healthy, productive life. It also provides entitlements, services and support to families of significantly impaired or deceased veterans. It recognises that the risks faced by deployed personnel are psychological and environmental as well as physical. The Act has two schemes:

Scheme One covers all veterans who served before 1 April 1974 (the day the ACC scheme came into effect). It retains a large measure of consistency with the War Pensions Act 1954. It covers people with routine service and qualifying operational service (previously described as war or emergency service).

Scheme Two covers veterans with qualifying operational service from 1 April 1974. It was introduced on 7 December 2015, a year after Scheme One. It covers people who have served in overseas deployments that are declared “qualifying operational service” by the Minister for Veterans. The Chief of Defence Force provides advice about whether a deployment qualifies, based on factors relating to operational and environmental risks.

A common administrative and decision-making structure is used to administer both schemes, according to statements of principles. These specify the service factors linked to particular conditions, and are the main way of determining whether a veteran’s illness or injury is service-related and, therefore, whether he or she is eligible for support. The Act carries over a list of illnesses and conditions conclusively presumed to be service-related for specific service. The statements of principles and the conclusively presumed list are used to make decisions about entitlements, services and support.

The schemes offer common and separate entitlements and support:⁴

Common

- medical treatment and rehabilitation services
- social rehabilitation services to help veterans regain independence
- vocational rehabilitation to help veterans remain in work or get back to work
- independence support so veterans can remain living at home
- financial support for funerals, plaques and headstones
- veteran’s pension
- asset-tested retirement lump sum for veterans who have been receiving weekly income compensation or weekly compensation for 10 years or more on the date they qualify for New Zealand Superannuation.

⁴ See appendix B for more details on the schemes’ entitlements.

Scheme One only

- weekly income compensation for veterans suffering any injury or illness (service-related or not) that prevents them from undertaking full-time work
- disablement pension based on the veteran's level of impairment (or the grand-parented war disablement pension)
- lump sums for veterans with terminal medical conditions that arose from service-related illness or injury
- children's pension
- dependant's pension
- children's bursary to support children in full-time secondary study or part-time or full-time tertiary study
- surviving spouse or partner pension for spouses and partners of deceased veterans who were severely impaired.

Scheme Two only

- vocational assistance for veterans unable to work as a result of an injury or illness that results from qualifying operational service
- weekly compensation for veterans who have qualifying operational service and suffer a service-related injury or illness that prevents them from working full-time
- weekly compensation for spouses, children and dependants of a veteran who had qualifying operational service and suffered a service-related death
- independence allowance for veterans with a permanent impairment of at least 5 per cent, arising from qualifying operational service between 1 April 1974 and 31 March 2002
- permanent impairment lump sum for veterans who suffer permanent service-related impairment of at least 5 per cent, arising from qualifying operational service on or after 1 April 2002
- survivor's grant for spouses, partners, children and dependants of a veteran who had qualifying operational service and suffered a service-related death
- vocational assistance for spouses of veterans who either suffered a service-related death or are unable to work because of the veteran's injury or illness resulting from qualifying operational service
- childcare payments for dependant children of deceased veterans.

Other support

There are also separate government agreements providing support to Vietnam veterans and Operation Grapple veterans.⁵ A memorandum of understanding signed in 2006 between the Crown, the Ex-Viet Nam Services Association and the Royal

⁵ Operation Grapple involved Britain's testing of atomic and hydrogen bombs at Malden Island and Christmas Island in 1957 and 1958.

New Zealand Returned and Services' Association commits to a package of support for Vietnam veterans and families, including:⁶

- free annual medical assessments for veterans⁷
- counselling for veterans and their spouses, partners and children for service-related matters
- funding for genetic counselling for veterans' natural-born children
- ex gratia payments of \$40,000 for veterans diagnosed with specified conditions, such as soft tissue sarcoma, Hodgkin's lymphoma, non-Hodgkin's lymphoma, chloracne and chronic lymphocytic leukaemia
- ex gratia payments for surviving spouses of deceased Vietnam veterans who die from one of the above conditions
- ex gratia payments of \$30,000 for natural-born children diagnosed with specified conditions, such as adrenal gland cancer, acute myeloid leukaemia, spina bifida, cleft palate and cleft lip
- funding from the Viet Nam Veterans and their Families Trust for Vietnam veterans or family members suffering poverty or hardship.

Another agreement enables families of Operation Grapple veterans to access family or psychological counselling and genetic counselling for the natural-born children of veterans who were conceived after Operation Grapple service.

Responsibilities

The Chief of Defence Force is responsible to the Minister for Veterans for the efficient and economic administration of the Act. Veterans' Affairs is a stand-alone unit in the Defence Force. The General Manager of Veterans' Affairs has the statutory authority to determine individual claims from veterans and their families for entitlements, services and support under the Act. Veterans' Affairs has a close partnership with the wider Defence Force, particularly Defence Health, which helps it support veterans.

Help from other agencies

New Zealand's universal healthcare, welfare and accident compensation systems make it difficult to compare veterans' support with that offered in other countries. These systems are designed to provide everyone with a high level of care and support when needed. Support for veterans and their families has been designed to supplement help from other government agencies, which include the Ministry of Social Development, the Ministry of Health, district health boards, ACC and

⁶ The Ex-Viet Nam Services Association is now known as the New Zealand Vietnam Veterans Association.

⁷ The agreement originally allowed for a one-off comprehensive medical assessment. It was subsequently changed to an annual medical assessment.

advocacy organisations.⁸ There are ways in which these agencies could work together better – a matter addressed later in the report.

Implementation

The Government gave veterans an undertaking they would be no worse off under the new Act.⁹ The challenge for Veterans' Affairs has been to ensure the continuation of many of the War Pensions Act 1954 entitlements for Scheme One veterans, while introducing a new rehabilitation approach and entitlements and support for Scheme Two veterans. The transition has required significant operational and organisational changes, and has not been easy, especially since it is a small organisation (just 65 staff). A widely held view was that the Government underestimated the extent of the changes and the resources needed to make them – a matter dealt with later in the report.

Veterans' Affairs has developed new ways to manage cases and make entitlement decisions, along with new operational policies (published on its website). It has also introduced seven master service agreements to replace 20,000 contracts for the supply of independence assistance and pharmaceuticals. To improve administrative efficiency, it installed a new information technology system and centralised all staff in one Wellington office. It is also tapping into the corporate infrastructure and medical expertise of the Defence Force.

⁸ See appendix C for details of their roles.

⁹ If a veteran is no longer assessed as meeting the eligibility criteria or if treatment and/or rehabilitation reduce his or her impairment, entitlements may be reduced or stopped.

Consultation process

Consultation document

To encourage as many people as possible to express their views on the Act's operation, I released a discussion document in July 2017, a month after my appointment to conduct the review. Submissions closed on 15 September.

The document was based on preliminary conversations with several key stakeholders and my research into the Act. It had 45 questions (see appendix D), but invited comment on any point people wanted to raise. There were three broad questions on which comment was especially invited:

- What do you think works well in the Veterans' Support Act 2014?
- What doesn't work well, or could be improved or clarified?
- Would you like to see any specific changes? If so, what are they, and why is change needed?

The review team held 13 public consultation meetings around the country, primarily with veterans and their families. We also held three focus groups with serving personnel, and one focus group with contemporary veterans. Finally, we held a workshop with Veterans' Affairs staff. In all, we met more than 700 people and received 200 written submissions.¹⁰ The willingness of people to share their personal stories was impressive. An analysis of the consultation process, covering written and oral submissions, will be available at www.nzdf.mil.nz/corporate-documents/vsa from the end of April 2018.

Table 1: Submitters by category

Type of submitter	Number of submissions
Former serving member of Defence Force	108
Veteran	107
Recipient of Veterans' Affairs support	54
Veteran's spouse or partner	28
Advocate	19
Representative organisation	15
Current serving member of Defence Force	14
Other family/whānau member or friend of veteran	11

¹⁰ 23 of the written submissions were from 20 groups representing over 11,000 people.

Type of submitter	Number of submissions
Service provider	11
Non-governmental organisation	10
Veteran's child or dependant	7
Academic or researcher	5
Professional association	3
Other	3
Government organisation	0

Consultation findings

Positive aspects of Act

Individuals and organisations with a perspective of both Acts considered most aspects of the intent, purpose and principles of the new Act to be sound and an improvement on its predecessor.

"In broad terms, the Act works well, especially with the introduction of the statements of principles and the acceptance of the numerous late-onset conditions. The Act simply needs some clarification and upgrading of several entitlements.... As a long-term veterans representative... I have developed extremely good relationships within VANZ and as a result do not find any barriers in seeking and accessing their assistance."

Veteran and advocate

Many submitters, however, expressed reservations about how the intent, purpose and principles were being implemented in practice.

The Act was widely considered to give suitable acknowledgement to the special nature of veterans, and to place the correct emphasis on treatment, rehabilitation and income compensation.

"Overall there has been a genuine attempt to grapple with the difficult problem of finding solutions to seeking to better the lives of the veterans as to recovery from injury, illness in the physical sense, and mental degradation resulting [from] active service in harm's way."

New Zealand Korea Veteran's Association, Auckland region

There was general acceptance that cover should be provided mainly for conditions linked to service. The introduction of the statements of principles was viewed positively, as was acceptance of many late-onset conditions. Both factors had contributed to more transparent decision-making.

“This [Statements of Principles system] works well and presents a helpful framework from which all conditions are evaluated and can be adapted to NZ veterans when necessary.”

Franklin RSA

Veterans and their families appreciated the greater variety of services offered under the new Act, especially the veterans’ independence programme and rehabilitation support.

Positive experiences of recipients

Some submitters felt well looked after under the Act. They also said they had experienced good service from Veterans’ Affairs.

“I personally have nothing but commendation for Veterans’ Affairs. I have benefitted from their assistance, including a knee replacement and hearing aid.”

Veteran, Tauranga consultation meeting

“I would like to record that I feel well served by VANZ; their support and services have enabled me to go on working and to maintain my home, quality of life and dignity, for which I am grateful. In fact, if not for the inception of the VANZ Vietnam veterans’ medical assessment some years ago, I would probably be dead or severely incapacitated by now – an aggressive and malignant condition (one of the accepted conditions) was detected and subsequently successfully treated.”

Veteran

People at consultation meetings often described their case managers as excellent, responsive and tireless workers.

“I do believe there is an overarching aim by VANZ staff to ensure veterans get the support, recognition, entitlements and services available to them so they lead a healthy and productive life.”

Service provider and family member of a veteran

“Those who are receiving assistance under the Act generally report that with good case managers, they are well provided for and looked after.”

Marton RSA

Key agencies considered they had a positive relationship with Veterans’ Affairs, and valued the work that the organisation performed.

“No Duff is pleased to be working with a rejuvenated VANZ...”

No Duff

Complexity of Act

An almost universal view was that the Act was unnecessarily complex, difficult to understand and interpret, and hard to navigate. Similar or related provisions were scattered throughout the Act, schedules and regulations without clear reason. This complexity made it difficult for veterans and their families to understand what they were eligible for and when.

Barriers to help

Many people reported problems getting set up in Veterans' Affairs' system. Some did not approach Veterans' Affairs as early as they could have, mainly because they didn't know they were eligible or what support was available. Others were unwilling to accept support.

"You've got to ask for help, and if you're not up to asking, you don't have a chance at all."

Participant, Palmerston North meeting

"Overall the Act is adequate. However, the support needs to be quick and practical all the time, and clear of bureaucratic claptrap and blockages. These are seen as barriers and just turn the veteran and the family off when they run into them."

Veteran and advocate

Many veterans believed they would be stigmatised for seeking help. Younger veterans, in particular, may not view themselves as veterans. Currently serving personnel noted their concern that if they sought help, it could harm their careers or prevent future deployments.

Better systems, resources and skills to deliver support

Many people said the application, assessment, approval and reimbursement processes were difficult. Having to seek a referral from a general practitioner to a specialist, when the veteran already had an established relationship with a specialist for a service-related condition, was seen as time-consuming, bureaucratic and unnecessary.

"The process for referral of vets requiring specialist treatment is clumsy and time-consuming and therefore needlessly expensive. The process does not lead to quality service involving continuity with known practitioners."

Veteran

Many said decisions took too long. The review heard from people who had waited more than six months for decisions – well outside the Act's requirement of 30 working days.¹¹

"It is not what the Act says, it is how it is interpreted and actioned at an individual level. It should be easy to make a claim, be assessed, accepted and then leave the individuals free to live their lives."

Surviving spouse

Many veterans pointed to problems with historical record-keeping, and disentangling service-related conditions from other illnesses and injuries. They considered that the burden of proof should be on Veterans' Affairs. Many also considered that the

¹¹ This does not count periods when Veterans' Affairs is waiting for information. Although the applicant is expected to supply supporting information, Veterans' Affairs tries wherever possible to obtain the information directly.

Government had a duty of care to those who had served, both during and after their service.

Some submitters said the Act and operational policies had been rigidly interpreted in assessing their applications. Many thought these policies compromised the principles laid out in the Act.

“The biggest issue is the decision-making by VANZ staff and their interpretation of the Act.”

Veterans’ association

A dominating concern was how Veterans’ Affairs provided information. Older veterans expressed concern at a lack of acknowledgment of documentation (“small acts of courtesy that no longer exist”), receipts and payments. The lack of face-to-face contact with case managers also concerned them. By contrast, contemporary veterans wanted better online information and the ability to complete applications and other processes electronically.

Veterans young and old were concerned about Veterans’ Affairs’ lack of responsiveness and proactive communication, notably lack of publicity about the Act, eligibility for support and the extent of that support. Better information for serving Defence Force staff, and a planned transition for those leaving the forces, were common suggestions.

“The current system is reactive and not proactive. The only time that VANZ moves is when it is sent a form.”

South East Asian Veterans Association

Veterans felt the expectations on them to provide information and evidence were too great, and they wanted better use made of information already held by Veterans’ Affairs and the Defence Force, more information-sharing between agencies, and automatic registration of veterans in the system. Many people expressed surprise that Veterans’ Affairs did not have a register of all veterans, their service history and any service-related conditions.

Eligibility and entitlements

The definition of veteran – and hence who was eligible for support – was raised frequently during the review. The greatest source of dissatisfaction was the inequities in recognition and support for those who had served New Zealand, particularly contemporary service people.

Most people disagreed with the current eligibility requirements, feeling that all those who have served with the Defence Force should qualify. Some felt eligibility should extend to outside groups, such as first responders.

Some suggested alternative criteria for eligibility, including years served, exposure to harm and level of medallic recognition. Tiered eligibility for support was suggested, with at least a basic level of support for everyone who had served, such as an annual medical assessment, counselling support and assistance with funeral costs.

Many people considered the current threshold for qualifying operational experience to be too high. I heard from many former service people who had no qualifying operational service, despite many years of service and numerous deployments.

"I am not considered a 'veteran' despite medallic recognition and 20 years of service."
Former Defence Force member, Tauranga meeting

Submitters cited examples of deployments (and activities) they believed should have qualified them for veteran status because they involved a risk of harm. They included routine service, domestic training and operations, humanitarian and disaster relief, and a range of current and historical overseas deployments.

"Most people who serve in the Defence Force will face some adverse impact. I'd like to think there would be some kind of safety net there when you need it."
Current Defence Force member, Whenuapai focus group

Veterans, their families and support organisations see the differences created by the Act's two schemes to be inequitable and discriminatory, primarily because of the inclusion of those with routine service in Scheme One but not Scheme Two, but also because of the difference in scheme entitlements.

"There is no good reason to have different entitlements for veterans based on when they served. Access to and eligibility for entitlements and support should simply be based on the needs, injuries and illnesses of veterans."
Veteran and spouse

Many also disagreed strongly with the inclusion of ACC in Scheme Two, and the expectation that people seek help outside Veterans' Affairs for their service-related conditions. They considered ACC should have no part in supporting veterans because ACC did not understand veterans' needs and did not operate on the benevolence principle. There was unanimous support for Veterans' Affairs paying for private treatment of injury or illness, but views differed about how long people should be expected to wait for treatment in the public health system before resorting to private care.

Submitters highlighted the role of spouses, partners and family members in veterans' treatment. They wanted more support for families and whānau, both while veterans are alive and upon their death. They suggested spouses, partners and children should be eligible for counselling and respite care in their own right. They also raised concerns about inequities in the two schemes' financial support for family members.

"It is also critical to remember that the spouse will remain the primary caregiver throughout the duration of the relationship. Their resilience, change in role, and their financial security must be considered from the outset."
RNZRSA

Many submitters said the eligibility thresholds were outdated or too high, often citing the example of percentage impairment thresholds for the surviving spouse or partner pension. Examples of provisions lacking parity or consistency included inconsistent application of Consumer Price Index adjustments and the small funeral grant. Some also saw disentitlement provisions as unfair or lacking benevolence.

Many wanted more support for veterans in crisis, particularly those with post-traumatic stress injury and other mental health conditions.

Submitters valued the veterans' independence programme, but wanted it to be more flexible and offer a greater range of support, including for spouses and families of deceased veterans. They thought the programme's services should last longer than 12 months after a veteran's death.

More holistic approach

Veterans and their families saw the current system as administratively burdensome and not veteran-friendly. Many wanted Veterans' Affairs to be solely responsible for providing all veteran-focused services and support.

"There needs to be a one-stop-shop. There is a minefield of agencies."
Participant, Henderson meeting

They also wanted better independent help and advocacy when making applications and navigating through the system. They appreciated the support from organisations such as the RNZRSA and No Duff, but expressed concern about the variable skills and knowledge of helpers and advocates.

Future reviews

Most people supported more reviews of the Act, considering it too early to tell how Scheme Two was operating in practice. They suggested regular reviews, occurring at least every five years.

More focus on the needs of veterans

Introduction

Getting access to help is a complicated process. First, Veterans' Affairs assesses people's applications according to the nature of their service, and the scheme they fit under. Then it assesses the applicant's conditions and determines which are service-related and which are not. Finally, it sets limits on the help it can offer, based on legislated entitlements and services.

This approach can work for people who meet the criteria, have access to the right records, fit within the rules, and have needs that are not too complex. For others, the result can be a poor match between their needs and what they get.

Both staff and veterans expressed frustration about this rule-bound system. Veterans and their families wanted a more holistic, flexible and veteran- and family-focused approach.

"I strongly believe some adjustments need to be made to the way Veterans' Affairs approach the provision of assistance to veterans. Their current attitude is a 'one-size-fits-all' approach. From an administrative and financial position, this works well. But from the veterans' side, it doesn't... personality, health, age, location, incapacitation etc isn't considered. One person is no different to another. In fact, each veteran is quite different."

Veteran

The Government's Chief Science Advisors offer guidance on creating a veteran- and family-focused system.¹² Although designed for the mental health system, it can apply equally to support for veterans. It recommends systems that:

- are people-centred and holistic
- are tailored to different needs and situations
- are easier for people to use, not easier for institutions to administer
- eliminate disconnected, incoherent services, and instead provide a net of resources within reach of all individuals
- focus on a predictable, preferably single, point of contact for services for each individual.

This is aligned with the approach of other countries. Australia has a programme of veteran-focused reform under way, and is streamlining its administrative practices,

¹² Office of the Prime Minister's Chief Science Advisor, *Toward a Whole of Government/Whole of Nation Approach to Mental Health* (2017).

instituting a more inclusive approach to supporting veterans' families, and offering more help in navigating the system.¹³

The United Kingdom introduced an integrated care package for veterans with the most serious injuries in 2016. The aim is to provide the best co-ordinated care possible.¹⁴ It is focused on having an overall view of the veteran and a long-term plan for their welfare. Veterans UK takes responsibility for veterans' problems and works with housing, health and social services providers to fix them.

Canada completed a review in 2017 that recommended Veterans Affairs Canada simplify the way it delivered services.¹⁵ In particular, it recommended:

- placing more emphasis on the veteran and his or her first contact with the agency
- ensuring veterans reach out the first time to the right place
- responding in a thorough, individual way to all of a veteran's needs, not just a few of them
- taking a comprehensive approach to veterans' wellbeing.

This report suggests five ways to shift the focus towards the needs of veterans and their families:

- make the Act and funding arrangements more flexible
- intervene sooner and faster
- offer veterans more comprehensive support, especially those with complex needs
- support families
- enhance independence support.

Findings

More flexibility

The Act offers entitlements (impairment and income support payments, with accompanying eligibility criteria) and services (treatment, rehabilitation and independence support). There is little flexibility in relation to determining entitlements (apart from the discretion to extend some supports), but there is more in relation to delivering services, which can be tailored to individual veteran's needs (an example being the type of help offered through the veterans' independence programme).

¹³ Australian Foreign Affairs, Defence and Trade References Committee Senate Inquiry, *The Constant Battle: Suicide by Veterans* (2017).

¹⁴ Ministry of Defence, *Better Care Package for Severely Injured Veterans* (media statement, 2016).

¹⁵ Veterans Affairs Canada, *Delivering Service Excellence: A Review of Veterans Affairs Canada's Service Delivery Model* (2017).

The Act enables Veterans' Affairs to offer more individual approaches than under the previous legislation. There is a stronger focus on rehabilitation and support for independence. However, New Zealand should be developing a flexible and cohesive veterans support system, not merely delivering legislated entitlements and services to individuals. I am concerned that almost complete reliance on legislated supports is compromising this larger goal.

Other sectors are not so constrained by legislation, and as a result are inherently more adaptable and flexible. It is easier and faster for them to respond to individual needs and wider considerations such as new priorities or shifts in population demographics. Examples include the social development system, which offers legislated entitlements and non-legislated programmes and services, and the health and disability support system, which arranges the delivery of services, supports and programmes through funding agreements and contracts. ACC has a strong focus on injury prevention initiatives, in addition to the cover it is legally mandated to provide to individuals.

If Veterans' Affairs had additional funding, outside that available under the Act, it would have increased discretion and ability to:

- support development of the sector and new initiatives
- fund programmes, services and supports not provided for under the Act
- undertake pilot projects and trial innovative approaches
- implement flexible support packages for individual veterans and their families.

Recommendations

I recommend that:

- The Act is amended so Veterans' Affairs has more flexibility to meet individual and family needs, including:
 - the ability to offer a range of treatments, rehabilitation approaches and supports
 - discretion to offer more or different services and culturally appropriate support.
- Veterans' Affairs is given funding to establish a flexible fund so that it can develop and offer programmes, services and supports in addition to those provided through the Act.

Intervene sooner and faster

Respondents said many people didn't approach Veterans' Affairs early enough, perhaps because they were unaware they are eligible, didn't know about available support or were determined to struggle on unaided.

"By the time a veteran approaches Veterans' Affairs, they are in a desperate state."
Participant, Tauranga meeting

Various measures dealt with elsewhere in this report – such as automatic registration, disseminating information and offering support to make applications for assistance – will help to correct this problem.

Submitters – including Veterans' Affairs staff – questioned the agency's ability to respond adequately in emergency situations. Veterans' Affairs can, in urgent situations, fast-track applications and delivery of services. I was given several examples, such as when a veteran presented with a serious mental health condition.

“Veterans' Affairs is very responsive in dealing with veterans with post-traumatic stress injury.”

Participant, Tauranga meeting

“I recently had a case where a veteran suffering from PTSD... was threatening suicide and I was really impressed with the way that VANZ handled the emergency claim I submitted. Acceptance of the conditions and immediate admission to a suitable clinic was all approved within a week.”

Veteran and advocate

However, the Act lacks sufficient flexibility to provide treatment, rehabilitation and support for veterans in high-risk situations, particularly when Veterans' Affairs has yet to determine whether an injury or illness is service-related, but has concerns for the veteran's wellbeing. Often a prompt assessment of the veteran's physical and mental health needs is necessary, followed by rapid access to mental health and addiction support, and stabilisation of basic needs such as housing and income. Some of these urgent needs may be met, or partially met, through other sectors, such as social services or the health sector. However, this will not always be the case, and Veterans' Affairs may need to intervene.

The Act specifically provides for treatment, but not rehabilitation, in emergency situations. Furthermore, emergency treatment can be offered only when a veteran has an injury or illness that has already been accepted as service-related. The Act does, however, provide for the appointment of a case manager and rehabilitation entitlements before a claim is accepted if Veterans' Affairs is reasonably satisfied the veteran's injury or illness is service-related. These provisions need to be more consistent and flexible.

Organisations that help veterans in crisis have suggested that an early intervention package would be helpful and could be offered immediately when needed. I recommend provision for delivery of such a package before Veterans' Affairs confirms that a condition is service-related. The package could include case management, treatment, rehabilitation and other support measures (such as urgent financial assistance) for veterans in serious or emergency situations. It may also be appropriate to provide emergency support before establishing that a person has qualifying operational service. Early intervention and emergency packages could be delivered through the flexible fund recommended above.

There may need to be legislative provision for recovering the costs from other agencies, such as when an individual later obtains ACC cover. If Veterans' Affairs subsequently finds the condition is not service-related, it should write off the costs,

rather than seek to recover them directly from the veteran, provided he or she acted honestly and in good faith.

Recommendations

I recommend that:

- The treatment and rehabilitation provisions of the Act are made consistent and flexible, to ensure that early intervention and an appropriate continuum of care can be delivered.
- Flexible early intervention support is made available to veterans in emergency, acute or otherwise serious situations, before the presence of a service-related condition is confirmed.

More comprehensive support

Many people said Veterans' Affairs did not consider veterans' problems through a sufficiently broad lens. What was needed, they said, was a wrap-around service in which case managers employed all available resources – both within and outside Veterans' Affairs – to meet an individual veteran's needs in a holistic manner.

“A holistic approach is needed, not case by case treatment of individual disabilities.”
Participant, Henderson meeting

“There is a need for a more holistic approach to ensure all ex-service personnel, and their families, are looked after throughout their lives.”
Former Defence Force member

Once Veterans' Affairs is involved in supporting a veteran, it is likely to retain a connection for the rest of the veteran's life. It may also have a role in supporting surviving family members after a veteran dies. In addition to a holistic approach, Veterans' Affairs needs to take a long-term view of the way it supports individual veterans.

Veterans and their families clearly have varying experiences with case managers. Precisely what a case manager is able to do on a veteran's behalf is unclear so there needs to be better information about case managers' roles and responsibilities.

“There is too much being pushed between agencies and going around in circles so that no one seems to care.”
Veteran

Veterans are concerned that other sectors have only limited awareness of, and responsiveness to, their needs. They are not a high-profile population group, nor a priority area, and seldom figure in relevant government agencies' strategies and action plans.

Given the focus on service-related conditions and injuries, there are limits to how holistic Veterans' Affairs can be in its approach. It is unlikely to be able to oversee all of a veteran's needs. However, Veterans' Affairs should use broad-based measures such as the veterans' independence programme as flexibly as possible.

I recommend that Veterans' Affairs takes a holistic and integrated approach to meeting veteran needs, including providing wrap-around support to the greatest extent possible. This requires: case management and rehabilitation which includes a more active relationship with veterans and their families, active involvement with other agencies and community organisations, and maximum flexibility in evaluating and meeting veterans' needs and agreed outcomes. Other measures detailed in this report, such as more flexible funding and legislative provisions and more support for families, will also help provide wrap-around support.

Recommendations

I recommend that:

- Veterans' Affairs takes a holistic and integrated approach to meeting veterans' needs, including providing wrap-around support to the greatest extent possible.

Integrated approach to complex cases

Many veterans and their families said they wanted Veterans' Affairs' to be given the task of providing all of their services and support. Some veterans wanted this one-stop-shop model to extend to all of their needs, not just their service-related needs. Others wanted Veterans' Affairs to take the lead on the veteran's pension, ACC and service-related healthcare.

"In our view, those who served in the armed forces (including their families and dependants) should be treated holistically when interacting with government... Accordingly, VANZ should be the major point of contact between those who have served, who are in need, and the government (the one-stop-shop model). While those who have served may be subject to a bewildering patchwork of statutory schemes providing entitlements and benefits, they should not experience this in their time of need."

Auckland RSA

Section 87 of the Act allows agencies that share responsibility for Scheme Two veterans (Veterans' Affairs, the Defence Force and ACC) to come to flexible arrangements about how they manage claims, entitlements and cover. They must co-operate with each other to reduce as much as reasonably possible any process-related duplication.¹⁶ Veterans' Affairs is responsible for the systems and processes that enable this inter-agency co-operation.¹⁷ There are no equivalent provisions for Scheme One veterans. The Act sets out a similar approach to agencies' preparation and updating of rehabilitation plans.¹⁸

¹⁶ Section 87(7).

¹⁷ Section 199(c).

¹⁸ Sections 114(b), (c), 119(2).

The Act does not say how agencies should work together to meet veterans' needs. The Code of Veterans' and Other Claimants' Rights does not refer to any rights to be advised about other available support or to be connected with other support and services. It is unclear how much leadership and control Veterans' Affairs is expected to exert on behalf of its veterans. It would strain Veterans' Affairs' resources to provide an all-encompassing integrated service, especially since it is already struggling to meet its legislative obligations and provide timely support. This kind of intensive integrated support tends to be targeted to those with the highest needs.

New Zealand's Productivity Commission looked at this question and identified different types of clients and matching approaches to meeting their needs.¹⁹ The commission found that an integrated approach best supported clients with many needs or complex problems (which were frequently persistent and even inter-generational). Veterans' Affairs' standard case management approach is unlikely to be enough for such clients.

The review heard about some complex cases in which veterans and their families found it distressing and difficult to deal with Veterans' Affairs, the Defence Force and ACC. Such cases will become more common, and the demand for an integrated response will grow, as more Scheme Two veterans come forward for help.

Experience to date suggests contemporary veterans are more likely to require integrated support because of their complex and unstable mix of health (often mental health) and social problems. Older veterans are likely to have increasing health needs and declining wellbeing. With time, their health, injury, employment and social histories become more complex, and it becomes harder to determine what arose when, or what exacerbated an existing condition. Veterans' Affairs says it typically takes a generous approach to determining eligibility in these situations, and does not stringently apply the disentitlement test about whether an injury or illness is due "wholly or substantially to the ageing process".²⁰ The priority for this older group is access to healthcare and support to remain independent at home for as long as possible.

Those with the most complicated needs require the simplest route to obtaining support – which would be a fully integrated approach led by Veterans' Affairs and taking a holistic view of veterans' health, rehabilitation and support needs, without the usual limiting factor of determining whether it is for a service-related condition. This approach, in essence, already exists for the veterans' independence programme, but is not in place for health and rehabilitation services.

Despite its rejection, the Law Commission recommendation to give broad healthcare assistance to all veterans at age 80 is sound – especially for those with complex needs. Many older veterans already have many approved service-related conditions for which they are eligible to receive support. Putting such individuals through

¹⁹ Productivity Commission, *More Effective Social Services* (2015).

²⁰ Section 28(4).

standard approval processes is both costly and futile, and also misses an opportunity to take a benevolent, integrated approach towards this population group.

This is an area where a degree of flexibility would be of benefit, but I am reluctant to recommend a sweeping approach to all older veterans over a certain age, or all high-need veterans, because this would be a huge disincentive to other sectors fulfilling their responsibilities towards veterans. However, I do recommend some flexibility in providing integrated care to veterans with high and complex needs. The best way to achieve this, as indicated earlier, is by drawing on flexible funding outside of the Act.

I also recommend that Veterans' Affairs be given a mandate and resourced to act as the single point of contact for veteran-focused services and supports for those with the highest and most complex needs. Some veterans may need this support for a limited time while their situation stabilises. Others may need it for longer. This may require protocols or legislative amendments to establish lead agency arrangements and funding transfers, particularly with ACC.

Recommendations

I recommend that:

- Veterans' Affairs is enabled to provide integrated packages of care where a veteran has high and complex needs.
- Veterans' Affairs is mandated and resourced to be the single point of contact for veteran-focused services and supports for those veterans with the highest and most complex needs.

Strengthen support for families

Introduction

The Act provides for entitlements for eligible spouses, partners, children and dependants of severely impaired or deceased veterans. The Act does not define “severely impaired”, although eligibility for some support is linked to impairment thresholds. There is no programme, strategy or operational policy focused on support for families, rather the Act includes a range of specific entitlements, which vary between schemes. They are backed up by regulations and operational policies.

Most support is for families of deceased veterans and takes the form of financial compensation, some as a lump sum, and some as continuing or time or age-limited payments. The Act also offers some limited non-financial rehabilitation support. Vocational rehabilitation is available to the partners of Scheme Two veterans in certain circumstances. To date, there have been no claims. The table in appendix B lists support available to family members.

These provisions reflect the narrow approach the Law Commission took to considering the needs of family members. While it made recommendations around financial entitlements, it did not consider other services and supports that families may need.

Attendant care may help family caregivers. It is offered under the social rehabilitation and veterans’ independence programmes. Attendant care offered as part of social rehabilitation is intended to give household family members a break, and to help them continue their employment and other activities. Care offered as part of the veterans’ independence programme is intended to give some relief to carers. Attendant care is rarely used because of stringent operational policies. Certain family members have limited access to health services such as counselling, but this is the result of agreements outside of the Act.

Eligibility for all entitlements is based on the relationship with the veteran and factors relating to the veteran’s death or disablement, such as level of impairment. The approach to different family members is inconsistent, and is dealt with later in this section. Taxation arrangements are quite generous and depend on whether the entitlement is regarded as a form of continuing taxable income replacement (for example, weekly compensation), or an untaxed payment recognising the impact of a veteran’s injury or death (for example, the surviving spouse or partner pension).

The number of people receiving the most costly form of family support, the surviving spouse or partner pension, is falling, mainly because of the ageing of Scheme One veterans and their families. In 2016-17, the surviving spouse or partner pension cost \$38 million. Very few people receive the other family entitlements, and very few family members receive entitlements under Scheme Two.

Table 2: Recipients of key family entitlements

Entitlement	Recipients in 2010 ²¹	Recipients at 30 June 2017	Amount at March 2018
Surviving spouse or partner pension Scheme One only	6,006	4,460	\$162.63 a week
Children's pension Scheme One only	21	43	\$174.14 a week
Dependant's pension Scheme One only	Unknown	2	\$162.63 a week
Children's bursary Scheme One only	54	7	\$230.06 to \$1,092.14 a year
Vocational rehabilitation (spouse or partner) Scheme Two only	N/A	0	\$0

Consultation feedback

Submitters highlighted the vital role of spouses, partners and family in a veteran's treatment, rehabilitation and support. I heard from many people – veterans, their families and wider whānau – about the very real impact an illness or injury had on their lives and the family unit.

A heavy burden of care is often placed on family – physically, emotionally and financially. Families take on greater or full responsibility for managing businesses, property and the household because of a veteran's physical and mental state. The health and wellbeing of a veteran's partner and family members can also be affected. Veterans spoke about the hardship their partners and children endured as a result of their service. People also reflected on how much support, including for families and whānau, was available to serving Defence Force personnel. That support ends when a veteran leaves the Defence Force.

"Wives are unpaid caregivers doing the work of Veterans' Affairs. The majority of vets need a push from their partners."

Participant, Tauranga meeting

"Widows need support too. You're left to flounder through the rest of your life."

Surviving spouse, Mosgiel meeting

Consultation emphasised the need for the Act to provide more and better assistance to veterans' families, notably in areas such as counselling, practical help and

²¹ The figures for 2010 are from Law Commission, *A New Support Scheme for Veterans: A Report on the Review of the War Pensions Act 1954* (2010). Note that the table uses current entitlement names, rather than those applicable in 2010.

financial contributions, including more generous access to the surviving spouse or partner pension. People also wanted more help for children and grandchildren of veterans exposed to hazardous conditions and materials, together with more research in this area.

Other countries

Many comparable countries use similar supports to help families of veterans, although they may be targeted to a wider or narrower range of recipients or offer more or less coverage. Income and/or asset testing is also likely.

The United Kingdom provides some income support/compensation payments, but little in the way of other support and services (which may be available through the National Health Service and social services). The United States has fairly comprehensive support for veterans and families. It provides a benefit to the parents of veterans who die from a service-related injury. There is also a family caregiver support scheme. The primary personal care provider is entitled to extra assistance, including for mental health services, respite care, and a monthly stipend. In New Zealand, a similar range of supports may be available from the Ministry of Health, district health boards and the Ministry of Social Development.

Australia and Canada are closest to New Zealand in their structure and approach to veterans' support. Australia has an extensive range of entitlements and supports for families, most similar to New Zealand's. Different eligibility and means testing arrangements apply, and some entitlements are less generous. Others are more generous or widely available, such as the funeral benefit, children's education benefits, health cards for dependants and partners, and counselling support for families.

Canada's range of entitlements and supports is also extensive. It offers generous access to counselling, access to group health insurance for widows and widowers, and a caregiver benefit. The caregiver benefit is a lump sum grant to ensure support and allow informal caregivers to take a break while a veteran's needs are still being met.

For some programmes, New Zealand offers comparable or more generous support to family members (for example, through the veterans' independence programme), but it lags behind in considering family members as distinct clients, in its counselling support for family members, and in its funding of carer relief, training and social support networks.

Findings

Whole-of-family approach

The Act, like its predecessor, emphasises financial support for dependent bereaved family members. It does not adequately recognise the impact of a veteran's illness or injury on his or her family's wellbeing, or that families frequently provide a great deal of care and support to veterans. This stands in contrast to well-established arrangements for family and carer support in equivalent sectors, such as aged care, disability support and mental health services.

The Act leaves large gaps in – and impediments to – support for families. Looking ahead, these limitations are likely to be further challenged by continuing changes to family structures and roles, and evolution in the nature and practice of work. As a result, there needs to be:

- recognition of the impact of veterans' illness or injury on their families while they are alive and after their death
- recognition that veterans may depend a great deal on family members for care and support
- consideration of the whole family's needs
- support and skills training for family members who are primary carers of veterans with a serious illness or injury
- relevant, practical support for families that complements the entitlements, services and support that are available through other agencies
- better bridging support for families when a veteran dies
- more consistency between both schemes' family entitlements, services and supports.

Recommendations

I recommend that:

- Veterans' Affairs consults family members about their needs and how they could best be met in preparation for service development and legislative changes.
- New family supports are funded, at least initially, through the flexible fund established outside the Act.
- The Act is changed to explicitly provide for consideration of families' needs and practical, flexible support for family members (either through a new addition to the Act or amendment of existing provisions).

Better alignment of schemes

Family entitlements in the War Pensions Act 1954 were largely carried forward to Scheme One of the new Act. Scheme One entitlements take the traditional approach of providing indefinite financial support for the surviving spouse or partner and help for children and dependants until they can support themselves.

Scheme Two focuses on rehabilitation, with an initial lump sum payment and income-related weekly compensation for a fixed time, while identifying alternative ways of supporting the family. Scheme Two is only available to the families of veterans who suffered a 'service-related death', and is therefore more targeted than Scheme One. At the time of the Act's development, there was a strong focus on making Scheme Two and ACC entitlements equivalent, and little on making the two schemes equivalent.

Taking a whole-of-family approach, as recommended above, would increase the range and level of support provided to all families. I also consider that the children's bursary, a Scheme One entitlement, should be available under Scheme Two. This is discussed further below, along with some other questions of equity between the schemes.

Inclusion of families' needs

The needs of spouses, partners, and other family members, deserve more prominence in a veteran's rehabilitation and treatment. Access to information, advice, counselling and other support would greatly benefit veterans and their families, especially for veterans with mental health conditions such as post-traumatic stress injury.

The immediate family's needs should be assessed alongside the veteran's, either as part of an integrated assessment or a separate family/carer assessment. Families may also need to be included in a veteran's rehabilitation and support plan, or have a plan of their own. Some countries, such as Australia and Canada, assess and provide support to family members in their own right.

Recommendations

I recommend that:

- Families are included in, or offered separate, needs assessments and rehabilitation/support plans.

Support for family caregivers

The lack of support for family caregivers was a persistent theme of consultation. Family caregivers want skills training, opportunities to build networks, and some time out from their daily responsibilities. The Ministry of Health, district health boards and ACC fund support for family caregivers. However, limits on access and availability mean that support may not always be available. Examples of the type of support that should be available from Veterans' Affairs are:

- *Carer relief*: This could include out-of-home respite care (for example, in a community residential or respite service), in-home care or a contribution towards informal care.
- *Training for family caregivers*: This could include training in areas such as providing personal care, managing challenging behaviour and self-management.

- *Social network supports:* Families facing similar situations can draw support from one another. Facilitating such networks, or access to them, could produce considerable benefits for carers. This could take the form of regular support groups or simply recreational opportunities.
- *Payments:* In exceptional circumstances, family caregivers could receive payments in lieu of care Veterans' Affairs' would arrange anyway. This may happen if the caregiving is a substantial or full-time role, or significantly affects a carer's earning ability or work opportunities.

These measures could be partly achievable within the Act. However, I recommend amendment of the Act specifically to enable funding or provision of support for family caregivers.

Recommendations

I recommend that:

- Carer relief and other support for family carers is implemented as a matter of priority.

Counselling

Many people at consultation meetings spoke about the enduring mental and emotional impact of service on veterans themselves and also on their families. One of the most frequent requests I heard was for counselling – both individual and family counselling.

At a minimum, counselling should be available to all spouses, partners and children for service-related issues. Veterans at the meetings spoke of recognising the long-term impact of their illnesses and injuries on former partners. Counselling should therefore be extended to former spouses and partners, as is the case for Vietnam veterans.

The bar for obtaining counselling should be set low. In Australia, for example, there is no requirement to establish that a mental health condition is service-related. It should also be available throughout the various life stages, such as when making the transition to civilian life or when coping with bereavement. However, a requirement for a care plan and a limit on the number of sessions (with discretion to extend the limit in certain situations) would be appropriate.

Recommendations

I recommend that:

- Counselling is made available to veterans' family members for needs related in any way to the veteran's service, although limits may apply.

Surviving spouse or partner pension

Spouses or partners receive this pension under Scheme One if the veteran's death was service-related or if the veteran was significantly impaired and was receiving, or could have received, a war disablement pension or disablement pension. The weekly payment is \$162.63, adjusted annually for CPI and tax-free. It is not included in income and asset testing for other state help. The average age of recipients is 84 (compared with 78 for new claimants). Applications can be made at any time after a veteran's death.

This pension is a compassionate means of supporting the spouses and partners who make sacrifices while veterans are deployed and also when they return home. Consultation meetings affirmed this view. Many veterans took comfort in knowing their partner would receive extra financial support when they died.

Eligibility tests for the pension are complex. Decision-makers sometimes have to apply these tests years after a veteran's death. They may have to determine whether a death was service-related or whether the veteran would have met the disablement threshold. These decisions require historical information about a veteran's health, employment and service history that may not be known or easily obtained. All of this can be difficult and time-consuming for the surviving spouse or partner and Veterans' Affairs.

Many people strongly felt that the surviving spouses and partners of all veterans should receive this pension. They generally favoured adjusting eligibility tests so surviving spouses or partners still qualified even if the veteran was under the qualifying level of disability. This would certainly be the simplest approach to take – but potentially an expensive one – and its cost would need investigation.

An alternative option is to change the eligibility tests to ease access for at least some people. Access to the pension could be made automatically available to spouses and partners of all Scheme One veterans with qualifying operational service. This would mean the percentage thresholds for accessing the pension would only have to be applied to the surviving spouses and partners of veterans with routine service.

I also consulted on whether, and how many times, it should be possible to reinstate the pension after a spouse or partner enters and then leaves a new relationship (such entry ending entitlement, although there is a lump sum payment equivalent to two years of payments). A discretionary provision carried over from the War Pensions Act 1954 allows reinstatement of the pension if the new relationship ends within five years. The new Act makes no mention of how often this can happen. In practice, Veterans' Affairs imposes no limitation, but the question remains.

Respondents' views were split between those who wanted the pension reinstated regardless of future relationship status, those who wanted reinstatement but with restrictions on how often, and those who wanted no reinstatement at all. The first group tended to consider the pension a privilege earned by the partner.

The crux of this matter is the purpose of the entitlement. At the time of its establishment, the pension was intended to provide financial support to a bereaved

wife. If she remarried, the new husband assumed responsibility for her financially. Nowadays, such an entitlement fulfils a mixture of functions:

- recognition of the hardship of losing a spouse and his or her financial contribution to the family
- recognition of a lifetime spent supporting a spouse with a service-related impairment
- compensation for the direct impact that a veteran's service had on the spouse or partner, including opportunities forgone and health and wellbeing effects.

The recognition elements of the pension do not cease upon entering a new relationship. I consider the question whether the pension should be available, regardless of the number of future relationships, to be a valid one. Given that the average age of new recipients is 78, it would be both benevolent and pragmatic to give them the pension for the rest of their lives.

Two other matters about the pension require comment. The first relates to the application period. As mentioned, there is no time limit on how long after a veteran's death a surviving spouse or partner can apply for the pension. If the application is made within six months of the veteran's death, the pension will be paid from the day after the veteran's death. But if the application is made more than six months after a veteran's death, payments start from the date Veterans' Affairs received the application. Extending this from six months to a year would be more benevolent and show more recognition of the grieving process.

The second matter relates to section 66(2). That section says the pension is not available where a couple was living apart, or not maintaining a relationship in the nature of marriage, at the time the veteran died. The following section, 66(3), makes an exception for couples living apart for health reasons. I would expect Veterans' Affairs' to apply a suitably broad interpretation of "health" so as to cover situations where, for example, a veteran's mental health, behaviour or addiction problems (or those of the spouse or partner, if attributable to the veteran's issues) make living together difficult.

Recommendations

I recommend that:

- Eligibility for the surviving spouse or partner pension is simplified by extending it either to all surviving spouses or partners of Scheme One veterans, or to all surviving spouses or partners of Scheme One veterans with qualifying operational service, and retaining existing eligibility criteria for veterans with routine service.
- The surviving spouse or partner pension is available to the surviving spouse or partner for the remainder of his or her life.

Children and dependants

Definition of child

A child is defined in Part 1 of the Act as a natural or adopted child, but also includes any other child ordinarily regarded as a child of a veteran because the veteran is, or was, the spouse or partner of one of the child's parents and acted as a parent of the child.

Veterans have expressed concern about the narrowness of the definition of "child", considering it an inadequate reflection of contemporary family life in New Zealand, or of children's financial dependence on veterans. Also, veterans may have a whāngai child under customary Māori arrangements, or may be raising grandchildren. In other aspects, such as the potential eligibility of children of a veteran's former partner, the definition seems relatively generous.

Children who do not meet the Act's definition will often still be eligible for support as a dependant, at least until the age of 18 (although they are ineligible for some types of support, such as the children's bursary).

Views during consultation were split more or less evenly on the issue, half considering the definition able to accommodate the various family arrangements of veterans, and the other half considering it inadequate to the task.

However, Part 6 of the Act, dealing with the veteran's pension, offers an alternative definition that is broad and more contemporary. The key aspects are that the adult has primary responsibility for the dependent child, and that the child is financially dependent on him or her and is being maintained as a member of the adult's family.

Recommendations

I recommend that:

- The definition of child in Part 1 of the Act is amended to better reflect the contemporary family unit in New Zealand, either by an expanded definition or by adding a sub-clause to the existing definition, to include any other dependent child who is being maintained, including financially, as part of a veteran's family.

Definition of dependant

The Act allows for the continuing support of a range of family members dependent on a veteran – either financially (in the case of children) or because disability, illness or advanced age prevents independent living (in the case of adults). The dependant's pension is a flat weekly payment of \$162.63 and is means tested. Very few people qualify for it.

This definition of "dependant" potentially takes in whāngai children, resident grandchildren and ill or disabled family members such as elderly parents and adult children. The definition is somewhat adaptable to circumstances.

Some submitters said the definition was not broad enough, and cited examples of veterans who provided financial and other support to ineligible extended family and whānau members such as parents and grandparents. They also said it did not cover situations where dependent individuals did not “ordinarily reside” with a veteran. Such people are usually ineligible for anything if a veteran dies or is disabled.

I do not support an extension of the definition, at least for now. There is not, as some submitters suggested, a deficiency in the technical definition. The issue is more fundamental and concerns the nature of family and whānau networks, how individuals support one another, and what the role of government funding and services is in those relationships. There was no consideration of these issues by the Law Commission or the Government of the day. In my view, the question of support for wider family and whānau should be canvassed during the proposed further consultation on support for families.

Children’s bursary

The children’s bursary, available under Scheme One only, offers support to eligible children undertaking full-time study at secondary school, or part-time or full-time study at a tertiary institution in New Zealand. Payment rates vary (see table below).

Table 3: Annual rates for children’s bursary

Children of veteran’s pensioners	Annual amount (March 2018)
Full-time Year 9-13	\$920.38
Full-time tertiary	\$1,092.14
Part-time tertiary	\$460.14

Other children	Annual amount (March 2018)
Full-time Year 9-13	\$460.16
Full-time tertiary	\$546.04
Part-time tertiary	\$230.06

Although fairly modest, the children’s bursary is highly valued by the few people who use it. During consultation, people said it increased the opportunities available to their children and helped with the household budget. They wanted it available for a wider range of study. Some wanted the age range extended to cover situations such as older children resuming study after a break and graduates undertaking further study.

Education benefits for veterans’ families in other countries tend to be widely available and are usually not linked to other income support for surviving families.

Access to the bursary is neither fair nor equitable. To align with more generous international approaches, the bursary should be available to children of both Scheme One and Scheme Two veterans. Restricting its use to secondary and tertiary study excludes other forms of unpaid study or training such as vocational training. Administratively, it would not be a difficult entitlement to provide to the children of veterans living overseas.

The bursary is not available to primary school children, although the costs associated with primary education are higher than they once were. A bursary for children at primary school could target those in hardship, perhaps at a lower rate than for secondary school students. It may also be possible to defer access so children can take a short break from study because of, for example, ill health or caring responsibilities.

Recommendations

I recommend that:

- The children's bursary is extended to:
 - children of Scheme Two veterans
 - a broader range of unpaid study or training, such as vocational training
 - children of veterans living overseas.
- Consideration is given to:
 - extending the children's bursary to primary school children
 - allowing postponing use of the bursary in order to take a short break from studying, or alternatively, to extending the bursary to people up to 25.

Childcare assistance

Childcare assistance is available under the social rehabilitation provisions of the Act for children up to 14²² but the family's overall situation is also taken into account.²³ Childcare assistance is also available under Scheme Two when a veteran dies as a result of fatal injuries. However, Schedule 2, Part 4, section 66 restricts childcare to either five years or when the child turns 14, whichever comes first. I consider this limitation unfair. Related provisions – allowing for extended support if a child is older and needs childcare because of a physical or mental condition – should remain.

Recommendations

I recommend that:

- Childcare payments under Scheme Two are available until a child turns 14.

²² Section 121(1)(c).

²³ Schedule 2, Part 1, section 10.

Entitlements on death

Funeral expenses

In the 12 months to 30 June 2017, 816 veterans registered with Veterans' Affairs died. Their average age was 89. The rate of deaths peaked about five years ago and continues to slow.

The Act allows Veterans' Affairs to pay for, or contribute to, the expenses of a veteran's funeral if his or her death was due to qualifying service. If not, a veteran's family is entitled to a grant towards funeral expenses, provided the family has been receiving certain income support entitlements.

The current maximum grant is \$2,482. This is similar to an equivalent Work and Income grant, but well short of those offered by ACC (see table 4 below). However, comparisons can be misleading because Veterans' Affairs may also offer other forms of support on a veteran's death, such as the disablement pension terminal lump sum, the veteran's pension lump sum, a survivor's grant, memorial costs and transport of the body. In addition, Veterans' Affairs will pay the funeral grant on top of any payments by other agencies, although such circumstances do not arise often.

Table 4: All funeral grants

Source	Maximum amount (March 2018)	Eligibility
Work and Income	\$2,030.91	For low-income people with few assets
Veterans' Affairs	\$2,482.43	For death due to qualifying service or if on certain types of income support
ACC	\$6,151.77	For death due to a covered injury
ACC/Ministry of Justice	\$10,000	For death due to homicide

Most people consulted by the review considered the current grant did not adequately contribute to the cost of a modern funeral, and left families with a financial burden. They typically suggested that the grant should increase to about \$5,000. Some wanted it to match ACC's grant. A smaller number of people felt the grant was adequate as a contribution to costs. Some veterans wanted the ability to complete the application and arrange the grant in advance to lessen the burden on family members when they died. Feedback also favoured extending eligibility to the families of all veterans.

There are three matters to consider here: eligibility, administration of the grant and the size of the grant. Currently the main purpose of the grant is to help relieve the financial burden on surviving families. However, the two schemes do not offer equal access to that relief. Scheme Two veterans must have died as a result of qualifying operational service. Scheme One veterans have wider eligibility, and their families

can receive the grant even if veterans do not die as a result of qualifying operational service. To be eligible, however, Scheme One veterans and their surviving family must have been receiving, or been entitled to, certain types of income support. In my view, both schemes should offer equal access to the grant.

The application process is complicated and requires a lot of information that family members may not have, adding to their distress at a difficult time. The process needs to be made simpler and easier. Veterans' Affairs should, for example, complete as much of the application as it can from information it already holds on file.

Also, the funeral grant and surviving spouse or partner pension are often applied for together. If eligibility for the surviving spouse or partner pension is extended, as suggested above, then eligibility for the funeral grant should be aligned. This would mean that, at a minimum, all veterans with qualifying operational service would be eligible for the grant. Income support-related criteria would continue to apply to those with routine service.

The grant currently makes only a very modest contribution towards funeral costs. As already noted, it is slightly more than Work and Income's grant, but substantially less than ACC's. It is also out of step with the overall approach to veterans' support, which is to offer entitlements comparable to those offered in other sectors, with a top-up in recognition of service. For efficiency's sake, a substantial increase in the grant could absorb the separate entitlement for transport of a veteran's body.

On a related matter, the Department of Internal Affairs and Ministry of Health are currently reviewing the Burial and Cremation Act 1964, section 15 of which provides for the burial of "Her Majesty's Forces" in service cemeteries. This legislation contains no definition of "Her Majesty's Forces", and the term is not used in the Veterans' Support Act 2014. This leaves open to interpretation who exactly is eligible for burial in a service cemetery.

For its purposes, Veterans' Affairs interprets "Her Majesty's Forces" to mean veterans with qualifying operational service who were members of the armed forces under section 9 of the Veterans' Support Act. Under section 15(2) of the Burial and Cremation Act, the Minister for Veterans can declare what operational service a veteran must have to deem him or her eligible for burial in a service cemetery, in consultation with the Minister of Defence and the RNZRSA.

I suggest the review of the Burial and Cremation Act considers how to align the definition of "Her Majesty's Forces" and the definition of "qualifying operational service" under the Veterans' Support Act 2014. Ideally, eligibility should be aligned with a simplified and consistent approach to qualification for other funeral expenses.

Recommendations

I recommend that:

- Eligibility for the funeral grant is aligned with simplified criteria for accessing the surviving spouse or partner pension.

- The funeral grant for veterans is increased so it is at least equal to ACC's funeral grant for death from a covered injury, and that its value is maintained over time, including through CPI-adjusted increases.

Plaques and headstones

Veterans' Affairs is responsible for funding memorial plaques and headstones for veterans and their spouses and partners. Before the Act came into force in 2014, Veterans' Affairs paid for or subsidised plaques and headstones for both New Zealand and Commonwealth veterans. It also funded changes to those plaques when a veteran's spouse or partner later died. The new Act does not, however, provide for benefits for Commonwealth veterans. People often described funding for veterans' plaques and headstones as a gracious act by the New Zealand Government, but views were mixed about whether this entitlement should be extended to Commonwealth veterans. Some people said it should depend on whether there were reciprocal arrangements with other countries.

Veterans' Affairs' practice has been to fund changes to Commonwealth plaques upon a spouse's death if it gave an assurance at the time of the veteran's or spouse's death that it would do so, and it received the funding application before 1 July 2016. This appears to be a fair transitional arrangement.

Generally, people considered that the families of all New Zealand veterans – not just those eligible for burial in a services cemetery – should be entitled to help with the cost of a plaque or headstone. As with funeral expenses, there can be a significant gap between the contribution and actual cost.

Grace period for payments

Under Scheme One, the war disablement pension and disablement pension continue to be paid for 28 days after a veteran's death, the purpose being to give the veteran's family some interim leeway financially. Scheme One has similar provisions for periodic family entitlements. There is no equivalent legislative provision for Scheme Two entitlements, such as continuation of the veteran's independence allowance.

Overwhelmingly, people said entitlements should continue to be paid for 28 days after a veteran's death, adding that it was the compassionate thing to do and would go a long way towards easing financial hardship during a stressful time for families. Furthermore, Cabinet Committee decisions suggest the Government always intended that all weekly entitlements should be paid for four weeks after a recipient's death.

Recommendations

I recommend that:

- The Act is amended to make it clear that periodic entitlements continue for 28 days after a recipient's death in those sections of the Act where there is currently no such provision.

Continuation of claims and reviews

A question in the consultation document sought comment on whether claims, reviews and appeals by a veteran or other applicant who dies in the interim should be processed and, if successful, whether any payment should go the estate or family members. Of 58 who commented on the question, 18 said family members should be able to access lump sums or other entitlements, 15 said caveats should apply, such as who could claim, and 16 said family members should not be able to access lump sum payments or other entitlements.

The Act allows appeals to be continued (by a “representative”), but does not explicitly mention claims or reviews. In practice, Veterans’ Affairs continues all these applications to their conclusion (except in circumstances where that would not be appropriate). The Act does not allow for subsequent reviews or appeals of applications.

The Act stipulates that payments can be made only to the person Veterans’ Affairs is liable to pay. In some specific time-limited situations, this can include payment to an estate. Veterans’ Affairs’ approach is flexible and benevolent. In 2017, for example, it made the operational decision to begin paying terminal lump sums to the estate of a deceased claimant. It seems reasonable that Veterans’ Affairs should also be able to make other types of payments to estates.

Recommendations

I recommend that:

- Veterans’ Affairs considers whether the Act should explicitly allow estates to progress to determination a claim or review lodged by a now deceased applicant.

Future generations

Many submitters expressed concern about the potential effects of chemical and radiation exposure on subsequent generations, as well as the health effects (including on mental wellbeing) of living with an ill or injured veteran. Submitters pointed to the absence of any provisions in the Act for intergenerational war damage. They also questioned whether current practice was up to date with international literature, and whether funding was available for research (particularly New Zealand-specific research) and access to genetic testing. The potential impact on the health of children and grandchildren was a common source of concern.

The Act does not offer entitlements or help for descendants whose health is affected by a veteran’s service. The Government has provided assistance to spouses, partners and children of Vietnam and Operation Grapple veterans through various agreements, now enshrined in policy, but unconnected to the Act. Some respondents expressed concern about the adequacy of these agreements, one example being the limited number of conditions they covered.

Internationally, intergenerational support is very limited. Australia and the United States give children of Vietnam veterans (and also children of Korean veterans in the

case of the United States) healthcare and other benefits. No country we examined extended support to grandchildren. In the United States, Congress is concerned about the intergenerational effects of chemical agents, and research programmes are under way. Evidence is also mounting about the impact of mental health problems, such as post-traumatic stress injury, on later generations.

I am concerned about the adequacy of New Zealand's approach to assessing the longer-term and possibly intergenerational impact of environmental, chemical, radiation and other toxic factors on service people. As a small country with a correspondingly small veterans' sector, New Zealand tends to take action in response to specific issues. In particular, I am concerned whether Veterans' Affairs or the wider Defence Force has the capacity and capability to undertake or commission these assessments. I also raise the question whether the Act should have the ability to offer services to descendants of veterans, or whether the existing arrangement of separate policies and agreements should continue to be used.

These are complex and highly technical issues beyond the capacity of the review to consider in great depth. I note the following points:

- A planned and continuing assessment of the effect of chemical, nuclear and other environmental exposures is needed. Veterans' Affairs needs to give the sector confidence that New Zealand is up to date and consistent with the latest evidence and has a plan of action for the future. However, New Zealand should be realistic about what it can do. It is more likely to be a follower than a leader of international developments in this complex area.
- Better and more strategic use should be made of the Medical Research Trust Fund, along with other research funding sources, to build an evidence base.
- The Government's approach to veterans and their families should be capable of offering some intergenerational support if the evidence justifies it. The agreements reached outside the confines of the Act offer examples of a flexible approach in this regard, even if they add to the already complex web of entitlements and supports for veterans and their families.

For now, I do not recommend any legislative changes in this area, although I suggest the agreements struck with Vietnam and Operation Grapple veterans are absorbed into the Act if support for families is extended, so there is greater parity with the provisions of those agreements.

Enhance independence support

Introduction

The War Pensions Act 1954 offered limited independence assistance to veterans with disabilities. The Law Commission recommended an expansion of this support through a veteran's independence programme, which would be available to all veterans over 80 or in receipt of a disablement pension. Help would be based on an assessment of the veteran's needs. In practice, this would have targeted assistance to veterans with impairments due to service or ageing.

The Government decided on a more generous approach than recommended by the commission. Veterans must have qualifying routine or operational service and be receiving impairment compensation to qualify for help through the veteran's independence programme.²⁴ However, Veterans' Affairs has the discretion to extend the programme's services to veterans with the necessary qualifying service who are not receiving impairment compensation. In practice, it has been very generous in applying the eligibility criteria, and offers the programme's services to all veterans.

The programme's aim is to help veterans live independently at home. Its sole focus is veterans' needs. Provisions relating to spouses and partners limit programme support to the same type and level as that provided before a veteran's death and for a maximum of 12 months after the veteran's death. If a veteran goes into a residential care, his or her services cease.

Range of services

These include attendant care to help with daily living (such as paying bills), personal care (such as basic podiatry services), section maintenance (for example, lawn mowing), home help (housework), adaptive clothing and footwear, medical alarms, home adaptations for ramps and rails, and home maintenance (for example, gutter and window cleaning).

Travel assistance is also available to veterans with high levels of disability or impairment.²⁵ This takes the form of a travel allowance for errands and a travel concession for journeys beyond 80 kilometres for recreational activities.

The most frequently provided services are house washing, lawns and gardens, and medical alarms. Many veterans also use the travel allowance. Some services, such as attendant care, are rarely used. Veterans' Affairs often facilitates such services through district health boards or the Ministry of Health.

²⁴ A disablement pension under Scheme One and/or an independence allowance or lump sum for impairment under Scheme Two.

²⁵ A permanent war disablement pension at 100 per cent or whole-person impairment of 75 per cent or more.

The programme's current budget is \$12 million a year. There is no prescribed list of services in the Act – it simply indicates what services may be provided. This is consistent with the Government's view at the time that services should meet veterans' individual needs. For administrative efficiency, the hearing aid battery allowance and motor vehicle loans are dealt with outside the programme.

Table 5: Programme spending and use in 2016-17

Spending	Total number of users	Most popular services
Total budget: \$8.24 million Proportion of budget: 6.46% Average per client: \$2,043	3,240 veterans or spouses (includes 100 spouses who received services for 12 months following the death of the veteran)	House washing (1,700 veterans) Lawns and gardens (900) Medical alarms (750) Home help, including personal care (750)

Assessment and service delivery

A Veterans' Affairs case manager conducts a needs assessment. No formal assessment is undertaken if Veterans' Affairs already has supporting medical evidence on file, or is satisfied a veteran needs help with only a few tasks to live independently (in which case the case manager will complete an application form for the veteran to sign). If a veteran has a very limited ability to do routine domestic tasks and/or may be at risk by continuing to live at home, an occupational therapist will conduct an assessment. Veterans' Affairs reassesses veterans' needs regularly.

Under the War Pensions Act 1954, about 20,000 contractors delivered independence assistance services. The introduction of more generous services in 2014 made such an approach unsustainable. Veterans' Affairs set up master agreements with Crewcut (section maintenance), Chemwash (house cleaning), Red Wolf (emergency alarms) and Healthcare NZ (home help) to deliver most services. It has signed nationwide contracts to try to ensure consistent, good-quality services throughout the country. Some service stipulations apply. The maximum lawn size, for example, is 700 square metres, and lawns cannot be mown more than 26 times a year.

The master agreements contain exemptions to deal with veterans who live in remote locations or have specific needs not catered for by providers. There are currently 158 veterans exempted from master agreements. The programme's services are also available to New Zealand veterans living overseas. In Australia, for example, there are 54 such veterans.

Feedback

The programme is very popular among veterans and their families, no doubt because of the generous eligibility arrangements, the absence of financial means testing (unlike the Ministry of Social Development, Ministry of Health and district health boards), the range of practical support, and the benefits of this kind of support for the individual veteran and family members. A survey of recipients of lawn mowing, house

cleaning and alarm services in 2017 found 85 per cent were satisfied with the services.

The few complaints the review heard about the programme related to the move from individual to master contracts, service stipulations (the lawn size limit being an example) and the quality and timeliness of some services.

Several respondents said the programme was too narrow, and Veterans' Affairs should have the ability to tailor extra services. However, Veterans' Affairs is looking to enlarge the programme's range of services. One idea is to offer a menu of services or a garden plan so there is no room for misunderstanding between veterans and Crewcut about what services will be delivered. In addition, veterans could be able to decide their priorities – for example, an hour of lawn mowing or an hour of garden work.

International comparisons

Australia and Canada run similar programmes. Australia has Veterans' Home Care, a programme to help veterans with service-related disabilities who need a small amount of practical help to continue living independently at home. Services include domestic assistance, personal care, respite care and safety-related home and garden maintenance. Many services require a payment from the veteran (for example, \$5 an hour for home and garden maintenance), while others, such as respite care, have no charge. Some services have restrictions on hours worked (for example, one and a half hours of personal support a week). If a veteran dies, the surviving spouse or partner can receive domestic assistance or safety-related home and garden maintenance for a further 12 weeks.

Canada's Veterans Independence Program provides financial assistance to help veterans with disability or compensation support to remain independent and self-sufficient at home. Services include grounds maintenance, housekeeping, personal care, access to home-delivered meals, home access adaptations, transport to social activities, outpatient services, and health and support services provided by a health professional.

New Zealand's range of services is similar to those offered in Australia and Canada, but its eligibility and levels of support are more generous. It does not, for example, require any payments from veterans, and Veterans' Affairs uses its discretion to help veterans who don't receive impairment compensation.

Findings

Eligibility

Most people felt the programme could cater for families of deceased veterans better. They also thought families should be able to take up their 12 months of support when a veteran moved into permanent care, instead of after they died. Some wanted the 12-month period extended for as long as needed, or up to 24 or 36 months. I appreciate the impact on families of removing programme supports, particularly since families are often veterans' primary caregivers.

More consideration should be given to the practical impact of a veteran's death or his or her move to rest home or hospital care. This includes whether the support offered to the veteran needs to be altered to meet the spouse or partner's needs. The same consideration may need to be applied to resident dependants, such as disabled family members.

The cost of offering services to partners and spouses indefinitely could be substantial, yet imposing a general limit, such as 24 or 36 months, has no particular logic. Veterans' Affairs should be able to exercise its discretion, and the Act should be amended accordingly.

Recommendations

I recommend that:

- The Act is amended so partners and spouses are eligible to access veteran's independence programme services after a veteran dies or goes into rest home or hospital care.
- Veterans' Affairs:
 - decides whether to extend services to a partner or spouse on the basis of their needs, taking into account tasks a veteran used to perform and did not claim for
 - helps a partner or spouse, when necessary, to find alternative funders of these services.

Purpose

People with disabilities or significant health issues gain many benefits from maintaining community links and a life outside the home. Some supports, such as travel assistance, already enable some participation outside the home. In my view, the programme should support veterans (regardless of their level of impairment) to perform daily activities in their community, such as going to the library, or doing shopping, if they need help to get to, and undertake, these activities. This could be done by expanding the programme's purpose to help veterans "live independently in their own home and participate in their community". A more generous interpretation of purpose would enable support to be provided for social purposes.

Recommendations

I recommend that:

- The purpose of the veterans independence programme is expanded so veterans can receive help to "live independently in their own home and participate in their community".

Breadth of programme

Support is limited to those activities veterans cannot undertake themselves. In practice, support is extended to those activities a veteran once undertook or could have undertaken. Submitters suggested some extra services the programme could

offer, such as chimney sweeping and arborist services. The programme is not there to meet the cost of work people have always had to pay for themselves. Nonetheless, Veterans' Affairs should have the flexibility to cover activities a veteran was previously able to do, such as trimming high hedges and trees. Submitters also suggested health and treatment-related services which could be funded under the programme. Most of these more properly fit under the Act's treatment and rehabilitation provisions.

Definition of home

Independence support is funded to help veterans live independently in their home. The definition of "home" in the Act specifically excludes certain places of residence, such as hospitals, motels and rest homes. The reason for this definition is to ensure that veteran's independence support is not used in places that are already paid to provide that help – in other words, to prevent double-dipping. Rest homes are an obvious example. However, some excluded living arrangements – such as motels and hotels – should be eligible if they are the primary residence. Of course, a needs assessment would still be necessary to avoid funding services already covered (for example, standard cleaning services). I note that Veterans' Affairs' operational policy clarifies that a person's home can include a boat or motor home if it is the primary place of residence.

Recommendations

I recommend that:

- The definition of "home" in the Act is updated to allow for a wider range of living arrangements.

Range of services

The Government intended the programme's services to be flexible enough to meet veterans' individual circumstances. Several submitters said there was a drift towards a one-size-fits-all approach. Non-standard arrangements tailored to veterans were being discontinued, they said, and more stringent operational policies were being applied to other services. Based on consultation feedback and services offered overseas, Veterans' Affairs could consider extending funding to the following kinds of services and supports:

Wellbeing and family-related services

- carer relief for family members who look after veterans
- travel costs for health needs that are not treatment-related (such as to collect prescriptions from pharmacies)
- travel insurance for service-related conditions
- annual hearing, vision and dental checks
- broader travel assistance to enable participation in social activities by veterans who are at risk of social isolation and are in financial need.

Section and home maintenance and activities in the home

- chopping and moving firewood, and other heating-related costs
- chimney sweeping
- car cleaning/grooming
- basic home maintenance (such as fixing locks and hinges)
- roof cleaning, and lichen and mould spraying
- path and deck cleaning, including mould protection and removal
- arborist services
- computer training to deal with daily activities (such as internet banking, ordering groceries online and paying bills)
- more support for vehicle modifications.

Many of these services seem a reasonable extension of services currently offered under the programme. Technology training, for example, is an essential communication tool for veterans and their families, and a link to the wider community. Likewise, carer relief seems a reasonable extension of attendant care, since spouses and family members are often veterans' sole carers.

Recommendations

I recommend that:

- Veterans' Affairs consults veterans and their families about the range of services that would most help them maintain their independence and participation in the community, in order to determine the areas of greatest need.
- Veterans' Affairs expands the range of support services to enable independent living, and ensures a flexible, individually tailored approach to providing these services.

Travel allowance and travel concession

Many people reported that obtaining reimbursement of travel allowances and travel concessions was time-consuming and inconvenient. Veterans must submit receipts to Veterans' Affairs staff for manual processing. (See the chapter "Improving the system" for more on the administrative burden on staff.)

Table 6: Spending on, and use of, travel allowance and travel concession in 2016-17

Spending	Usage
Total spending on travel allowance: \$975,000 Average spending per client: \$1,200 to \$1,300	Travel allowance: 800 veterans
Total spending on travel concession: \$220,000 Average spending per client: \$1,321	Travel concession: 167 veterans

The travel allowance and travel concession were carried over from the War Pensions Act 1954.

The travel allowance is intended to help veterans undertake activities that enable them to live independently at home. Typical activities are grocery shopping and social activities. The allowance, paid fortnightly, is worth \$25.13. It can include a payment for someone to travel with a veteran if he or she is unable to travel alone. To qualify, a veteran must be on:

- a permanent war disablement pension of at least 100 per cent or
- a permanent disablement pension of at least 75 per cent whole-person impairment or
- an equivalent temporary pension at the appropriate level continuously for the previous three years. In addition, the veteran must be either totally blind, or on compensation for loss of all or part of a limb, or be medically assessed as unfit to travel alone.

The travel concession is intended for personal and recreational travel by veterans for distances over 80 kilometres. Eligibility is based on having a certain level of impairment similar to the criteria used for the travel allowance. Specific criteria apply for payment for someone to travel with a veteran if necessary. A partial travel concession is also available to veterans with a mobility impairment but who are less impaired (that is, on a permanent war disablement pension of 55 per cent or more for that impairment, or a permanent disablement pension of 48 per cent or more). It is paid at 50 per cent of a full travel concession. Many people said they felt the 80-kilometre rule was unfair, particularly if trips fell just short of this distance. They described the need to remember to obtain and keep receipts as a hassle.

At present, only about half of the veterans entitled to claim the full travel concession actually do so. This raises questions about whether the incentives to claim are right, and how well the current approach supports veterans' travel needs. Figures from 2017 show that a group of relatively less disabled veterans are using the travel concession quite heavily, and that the top 20 per cent of the group (about 250 individuals) account for more than half of total expenditure. In addition, the reimbursement process is labour-intensive. Veterans' Affairs staff process between 150 and 200 claims a week. There is no cap, and some veterans submit claims totalling up to \$12,000 a year.

The eligibility requirements for both the allowance and the concession are very high. A simpler and fairer approach to travel assistance is needed so more veterans receive assistance and the reimbursement process is less administratively burdensome. I suggest combining the allowance and concession into a single grant covering travel for errands and social activities. This could be paid either fortnightly or annually and could be based on a veteran's needs or level of impairment. Canada has a three-tier grant based on a veteran's needs and level of incapacity.

A needs-based grant could consist of either a base grant or a series of graduated grants. A base grant would be for all veterans receiving help through the veteran's independence programme, with a top-up determined by an annual needs assessment for those veterans seeking a higher rate. Graduated grants could be based on an annual needs assessment, that is, low, medium and high/complex needs, and could take into account such factors as a veteran's mobility, level of impairment, available family support, and whether he or she lives rurally or in a metropolitan area.

An impairment-based grant could offer a single flat-rate grant (for example, to all veterans with a whole-of-person impairment of 50 per cent or more) or tiered grants based on impairment (for example, 30-50 per cent impairment, 51-75 per cent impairment, and more than 75 per cent impairment).

Any of these options would allow more veterans to claim travel assistance while avoiding the need to fill in forms, provide receipts and wait for reimbursements.

Recommendations

I recommend that:

- The travel allowance and travel concession are combined into a single grant covering travel for both errands and social activities.

A fairer, clearer Act

Introduction

The War Pensions Act 1954 was, in the view of the Law Commission, not only very outdated, but also difficult to understand, in part because of numerous piecemeal changes.²⁶ The new legislation was intended to be simple to read and understand. However, the universal view of submitters was that the Veterans' Support Act 2014 was unnecessarily complex and very difficult to understand and interpret.

"The Act is far too cumbersome and complex to be easily understood by anyone other than a lawyer, and to be quite frank, they often fail to grasp it as well."

Veteran

The Act was also seen as disjointed, with similar or related provisions scattered throughout the Act, schedules and regulations without any clear reason. As a result, veterans and their families found it hard to apply the Act to their personal circumstances. Many submitters believed the Act should be simplified and written in plain English. Some also suggested a Māori translation.

"What all veterans would appreciate is a simplified version of the wording of the Act, in non-legal/legislative language, so that it is much easier to understand – Veterans' Support Act for Dummies."

Veteran

Many submitters expressed concern that the onus of proof seemed to be on veterans and their families, as opposed to the state. Others said operational policies and practices compromised the support given to veterans, and were given undue weight compared to the Act – and sometimes even conflicted with its principles. Several submitters suggested Veterans' Affairs should make its operational policies easier to find on its website. (See more on operational policies under the section "Improving the system".)

Findings

The Act is indeed too complex, difficult to understand and interpret, and disjointed. It was prepared in a rush. With more time and a focus on veterans' needs, it could have been a more streamlined, logical and accessible piece of legislation. In many areas, it simply mimics ACC legislation or carries over provisions from its predecessor. Being scarcely four years old, there is probably little interest in completely rewriting it. Failing that, I suggest a series of changes, outlined below, as well as a plain English guide to the Act, which would be a practical and useful document for veterans and their families. These suggestions have four broad goals:

- streamline and simplify the Act

²⁶ Law Commission, *Towards a new veterans' entitlements scheme: A discussion paper on a review of the War Pensions Act 1954* (2008).

- amend some of its eligibility and entitlement provisions
- strengthen its purpose and principles
- moderate its exclusion provisions.

Their effect, among other things, will be to give the Act greater flexibility and more discretion to meet the current and future needs of veterans and their families.

Streamline and simplify the Act

Combine common provisions

Many people said the Act's complicated layout could be improved by grouping similar provisions or subject material together.

Provisions relating to the two schemes are in different parts of the Act and schedules. Part 4 of the Act has provisions relating to vocational support for spouses and partners, the independence allowance and weekly compensation, while entitlements such as the survivor's grant are in Schedule 2 of the Act. The Act would be easier to understand if all entitlements relating to veterans and families for Scheme Two were located together. Some provisions on a single topic are scattered throughout the Act, while other parts of the Act contain duplications and are somewhat inconsistent. Rehabilitation and treatment provisions are one example. As much as possible, all information about a particular entitlement should be in one place and linked to related provisions.

Remove unneeded sections

Many submitters believed the right balance had not been struck between the Act, regulations and operational policies. To an extent, I agree. Some provisions in the Act and regulations would be better managed administratively or in operational guidelines. This is particularly so for provisions setting out procedural and administrative practice (such as the process for applying for weekly compensation).

Provisions relating to approving new treatment providers are another example. The Act would be more flexible if it did not require treatment providers to be added by regulation (as acupuncturists, audiologists, counsellors and speech therapists recently were). The addition of new treatment providers is also strongly linked to which practitioners are recognised for the purposes of the Accident Compensation Act 2001.

A better way would be for the Act to allow the General Manager of Veterans' Affairs, or his or her delegate, to add new treatment providers. This would remove the need for Cabinet involvement and amendments to regulations. In the interests of openness and transparency, Veterans' Affairs should publish approved treatment providers on its website, and list its preferred practitioners.

Technical amendments

There are places where the Act's wording is inconsistent with the Government's decision to limit certain entitlements. For example, the Government agreed that Scheme One weekly income compensation would be paid to veterans with qualifying

operational service who were under the retirement age and unable to work.²⁷ Section 59, however, says a veteran is entitled to weekly income compensation if under the New Zealand Superannuation age, unable to work full-time and participating in a rehabilitation plan. It does not tie weekly income compensation to qualifying operational service, as intended.

Reordering

Some sections do not read well because of their ordering. For example, section 66(4), “A spouse or partner of the veteran is entitled to a surviving spouse or partner pension at a rate specified in regulations made under section 265” – is the last point in section 66, when it would make more sense for this to come first (since it is pertinent to the purpose of the section). Similarly, the provisions relating to appeals appear in sections 228-239, before the role and composition of the Veterans’ Entitlements Appeal Board (and related arrangements) are set out in sections 240-246.

Terminology

Some submissions cited words or phrases that needed to be defined, such as “fit for work”, or added, such as “stress” in relation to deployment risks. (See the full list in the consultation analysis report.) In the event of more significant amendments to the Act, these suggestions should be considered, but not at this stage. Other changes that could be made include: amending reference to “treatment” cards to include reference to “rehabilitation”; using either “work” or “employment”, not both interchangeably; including children of veterans when defining “other claimants”; and removing “disablement” and “infirmary”, which are outdated terms.

Technology

Younger veterans, in particular, wanted to be able to apply for services online. Updating the Act to allow for current and future technologies (including computers, phones and video-conferencing) would be useful. For example, the Act refers to the power to summon witnesses in person, when they should be able to appear remotely. In Australia, a bill was recently introduced to enable computerised decision-making.²⁸

Discretion and flexibility

The Act provides some flexibility and discretion for Veterans’ Affairs in how it meets the needs of veterans. When there is an opportunity to amend the Act, I recommend that Veterans’ Affairs considers whether even further discretion or flexibility needs to be built into the Act to accommodate the future needs of veterans and their families.

²⁷ SOC Min (12) 35/6C and CAB Min (12) 35/6.

²⁸ The Veterans’ Affairs Legislation Amendment (Digital Readiness and Other Measures) Bill 2017.

Reconsidering decisions

Section 205 of the Act allows Veterans' Affairs to reconsider a decision at any time if it thinks it may have made an error. The consultation document asked whether this should be extended to include the receipt of new information by Veterans' Affairs. Many submitters agreed with such a proposal if new information came to light – as long as it was not to a veteran's detriment. Such an amendment would apply only to decisions made under the new Act. The High Court recently concluded in *Edwards v Attorney-General* that there was no ability to re-examine decisions made on applications received by Veterans' Affairs before the new Act took effect.²⁹

Recommendations

I recommend that:

- Veterans' Affairs writes a plain English guide to the Act for veterans.
- The Act is streamlined and simplified by:
 - combining common provisions
 - removing sections that don't need to be in the legislation or regulations
 - making a number of clarificatory and technical amendments
 - providing more flexibility and discretion for Veterans' Affairs, so it can meet the needs of current and future veterans and their families
 - allowing for current and future digital technologies.
- Section 205 of the Act is amended to make clear Veterans' Affairs can at any time reconsider a decision about an application made under the Act if it has made an error or significant new information comes to light that is likely to materially affect the decision.

²⁹ *Edwards v Attorney-General* [2017] NZHC 3180, Williams J.

Amend some eligibility and entitlement provisions

Complexity is an inherent and somewhat unwelcome aspect of the Act. Complex eligibility arrangements and thresholds, overlaid with means testing for some entitlements and support, could be simplified.

Carried over and multiple entitlements

Some veterans said they were reluctant to apply for entitlements for new conditions in case they were left worse off as a result. Such a situation can arise when veterans are eligible for entitlements across both schemes or within Scheme Two. It can also happen when an entitlement has been carried over from the War Pensions Act 1954 and a veteran wants to claim for a new condition.³⁰

For example, veterans receiving a war disablement pension under the War Pensions Act 1954 said that applying for a new condition under Scheme One might risk Veterans' Affairs reassessing their impairment rating below 52 per cent for the disablement pension, which would jeopardise their spouse or partner's continued entitlement to a surviving spouse or partner pension. They cited other examples. A veteran risked a lowering of his or her impairment rating by switching from a disablement pension under Scheme One to an independence allowance (for service-related conditions arising between 1 April 1974 and 1 April 2002) or a lump sum for permanent impairment (for service-related conditions arising from 1 April 2002 onwards) under Scheme Two.

Veterans' Affairs should make sure individuals who are receiving entitlements or support under Scheme One and who want to apply for a new condition under Scheme Two understand fully the implications for their overall entitlements and the respective advantages, disadvantages, and trade-offs. Veterans' Affairs is already doing so in a spirit of goodwill, but I believe it should give veterans this advice in writing.

Size of entitlements

Veterans' supports and entitlements are meant to provide a little more than that given to ordinary citizens in recognition of their service. In practice, it is not clear this is always the case. The review has found examples where other agencies offer more than Veterans' Affairs – vehicle modifications by ACC being one such example. The complexity also makes comparisons difficult. Funeral grants and hearing aid allowances were cited as examples of an inferior level of payment.

³⁰ Section 84 already provides for decisions to be made for offsetting dual entitlements for service-related aggravation. In practice, Veterans' Affairs uses the origin of the injury, illness or condition to make a decision. This is different to applying for a new condition.

Recommendations

I recommend that:

- Veterans' Affairs reviews entitlements, services and supports under the Act to ensure they offer an extra margin of support compared with those provided by ACC or other agencies.

Income support

Younger veterans expressed concern about their financial wellbeing, especially if injury or illness were to limit advancement opportunities or income – and as a result reduce their ability to obtain home or personal loans. Some entitlements, such as Scheme One weekly income compensation, are not CPI-adjusted because the minimum rate of weekly compensation must be set at 80 per cent of the average wage. Any adjustments are based on the Labour Cost Index. Weekly compensation under Scheme Two is paid at 100 per cent of a veteran's pre-injury or pre-illness earnings for the first year, and then at 85 per cent for the second and any subsequent years. A minimum rate of 80 per cent of the average wage applies. Younger veterans said this approach failed to take account of their potential earnings, had they not been injured or become ill.

"A Private disabled in 1980 would be well below the 2017 poverty line if the [entitlement] is not indexed with inflation...Any [entitlement] needs to reflect current pay scales."

No Duff

Older veterans said the veteran's pension should be higher than New Zealand Superannuation because their entitlements were supposed to be a little more than that received by ordinary citizens (see next section).

Scheme Two entitlements are adjusted in line with ACC's entitlement adjustments. I consider that all relevant entitlements in the Act should be (at least) CPI-adjusted.

Veteran's pension

The consultation document sought feedback on whether the veteran's pension should be automatically available to veterans instead of New Zealand Superannuation. Payments are the same, but automatic entitlement would remove any confusion about eligibility and offer the added advantages of the veteran's pension, namely, automatic access to a Community Services Card and Veteran SuperGold Card, continued payment of the pension if in hospital for more than 13 weeks, and a lump sum payment on death.

Most respondents wanted automatic availability of the veteran's pension (including the RNZRSA, partly, it said, in recognition of the nature and impact of service, and partly because many post-Vietnam-era veterans did not regard themselves as veterans). For many submitters, there was a difference of some years between finishing their service with the Defence Force and being eligible for New Zealand Superannuation. Respondents supported an opt-out clause that left veterans with a

choice in the matter. They also wanted better information on the differences between New Zealand Superannuation and the veteran's pension.

Some veterans wanted an increase in the veteran's pension to reflect the actual costs faced by veterans and their unique contribution to New Zealand. The majority of submitters to the Law Commission's discussion paper favoured a higher rate than superannuation payments, but the commission recommended no change because of the cost and the risk the Government would come under pressure to match this rate for other superannuitants. In 2016-17, a total of 8,272 people received the veteran's pension at a cost of \$162 million.³¹ The veteran's pension rates are shown in table 7 below.

Table 7: Rates for veteran's pension in 2017-18

Payment type	Fortnightly amount
Single person living alone	\$450.10
Single person sharing accommodation	\$413.60
Person married or in civil union or de facto relationship	\$340.80
Person married or in civil union or de facto relationship whose partner or spouse also qualifies for veteran's pension or superannuation	\$681.60
Lump sum payment on death of veteran	\$5,885.04
Lump sum payment on death of spouse	\$4,487.51

A few veterans said the veteran's pension eligibility age should be lowered from 65 to 60 because service prematurely aged many veterans. At present, veterans under 65 can access weekly income compensation (under Scheme One) and weekly compensation (under Scheme Two) if their injury or illness prevents them from working.

A few respondents wanted residential requirements for eligibility loosened or removed. This is because of the effect on terminally ill veterans who return to New Zealand for treatment and, being unable to receive the veteran's pension due to residency requirements, are forced to apply for an emergency benefit.

One respondent explained that she had struggled to get enough support through the Ministry of Social Development when her veteran husband died. She was under 65 at the time of his death, ineligible for the veteran's pension and unable to work because of a disability.

³¹ GST exclusive.

Very few submitters suggested changing the eligibility requirements of the veteran's pension, although there was some confusion among veterans and their families about its purpose and who qualified. The purpose, in my view, is clear. It is a payment in recognition of a veteran's service (and of the support provided by the spouse or partner), which is why eligibility is based on qualifying operational service rather than any disability.

For a spouse or partner, eligibility is less straightforward. A spouse or partner can receive the veteran's pension if the veteran has a war disablement pension of at least 70 per cent, or a disablement pension or independence allowance of at least 52 per cent, or received a lump sum for permanent impairment, and the spouse or partner has reached New Zealand Superannuation qualification age. The same eligibility threshold applies for a spouse or partner of a deceased veteran, although the pension stops immediately if the spouse or partner enters into a new relationship.

A veteran can choose to receive the relationship rate of the veteran's pension if his or her spouse or partner is not entitled to New Zealand Superannuation or a veteran's pension. This is only possible, however, when the combined income of the veteran and spouse or partner (if employed) does not prevent receipt of the veteran's pension due to abatement.³²

Setting a spouse or partner's eligibility at a higher level than applies to the veteran is neither fair nor in keeping with the purpose of the payment, which is to recognise a veteran's service and acknowledge the spouse or partner's support, irrespective of any significant impairment. I consider the threshold for a spouse or partner's eligibility should be reviewed if an opportunity arises to change the legislation.

Veterans and their families strongly supported automatic eligibility for the veteran's pension. The New Zealand Superannuation application form includes the question, *Have you served in the New Zealand Armed Forces?* It also prompts veterans to contact Veterans' Affairs. Veterans' Affairs is working with the Ministry of Social Development to try to identify veterans so it can take the initiative in contacting eligible veterans. This is a good step and goes some way towards making sure veterans are fully aware of their eligibility for a veteran's pension and the implications of that eligibility.

The two organisations should continue working together to see what other improvements can be made to the application process, so veterans with qualifying operational service automatically know about their eligibility, understand the extra benefits compared with New Zealand Superannuation, and can make an informed decision about which pension they would prefer. This may require information-sharing and system changes.

The veteran's pension, as an equivalent alternative to New Zealand Superannuation, cannot be available to those who do not meet New Zealand Superannuation residency criteria. Nonetheless, everything possible should be done to expedite

³² The veteran's pension falls by 30 cents for every \$1 of combined income between \$100 and \$200, and 70 cents for every \$1 of combined income above \$200.

emergency benefit payments for veterans who return to New Zealand for urgent health treatment but fail the veteran's pension residency requirements.

Recommendations

I recommend that:

- Veterans' Affairs reviews the adequacy of financial support for veterans and their families and that this work consider whether:
 - all serving and former serving personnel should be eligible for a veteran's pension in recognition of their service to New Zealand
 - the veteran's pension should be higher than New Zealand Superannuation payments
 - the eligibility age for the veteran's pension should be lower than 65
 - the impairment threshold for a spouse or partner's eligibility for a veteran's pension should be removed
 - there is enough support for spouses and partners who are under 65 at the time of a veteran's death and unable to work because of ill health or disability.
- Veterans' Affairs and the Ministry of Social Development work to improve the application process for the veteran's pension so qualifying veterans can make an informed choice about whether to receive New Zealand Superannuation or the veteran's pension.

Strengthen the purpose and principles

Purpose

Section 3(1) says that the Act's purpose is to provide for:

- a) the rehabilitation of and support for veterans who, as a result of being placed in harm's way in the service of New Zealand, have been injured or become ill; and
- b) entitlements for eligible veterans who suffer service-related injuries or illnesses; and
- c) entitlements for eligible spouses, partners, and dependants of severely impaired or deceased veterans.

This clear, relevant and appropriate statement of statutory purpose was not contested during consultation, although the RNZRSA suggested a supplementary purpose – recognition of the unique nature of military service, and a benevolent approach to treatment of claims. Given the clear statement of purpose, and the reference to benevolence in the principles in section 10(b), I am not convinced this is necessary.

Many submissions highlighted the failure to give adequate consideration to the needs of veterans' families, who provide day-to-day support to injured veterans and are themselves deeply affected by injuries, illness and impairments borne by individual veterans.

Section 3(c) refers to families (“eligible spouses, partners, and dependants”) only in the context of severe impairment or death of a veteran, and overlooks the fact that many family members provide a crucial support role to veterans who are not severely impaired. I therefore suggest the inclusion of a reference to families in section 3(a) as follows:

“the rehabilitation of and support for veterans *and their families, where a veteran has been injured or become ill* as a result of being placed in harm’s way in the service of New Zealand”³³

A secondary purpose provision, in section 3(2) of the Act, is “to promote positive veteran and claimant interaction with Veterans’ Affairs New Zealand”. The Code of Veterans’ and Other Claimants’ Rights, promulgated in 2015,³⁴ was intended “to meet the reasonable expectations of veterans and claimants (including the highest practicable standard of service and fairness) about how Veterans’ Affairs should deal with them ...”.³⁵

The Code sets out the standard of service Veterans’ Affairs is to provide. It contains specific promises, such as: “We will recognise that you may be under physical, emotional, social, or financial strain”; “We will respond to your questions and requests in a timely manner”; and “We will work with you to address problems and concerns”.³⁶ Yet many veterans described interactions with Veterans’ Affairs that fell short of these standards.³⁷ I believe Veterans’ Affairs staff struggle to deliver the prescribed level of service because of inadequate resourcing.

I recommend Veterans’ Affairs reminds staff of the spirit of the Code, in particular the need for “a partnership based on mutual trust, respect, understanding, and participation” between Veterans’ Affairs and claimants, and for Veterans’ Affairs staff to “work with claimants to make sure they receive the highest standards of service and fairness”. Many of the recommendations in this report are intended to give life to the spirit and principles of the Code. Veterans’ Affairs should also promote the Code among members of the veteran community and use the spirit of the Code as a benchmark for the standard of service its staff provide.

Recommendations

I recommend that:

- Section 3(a) of the Act is amended to include families and to read: “the rehabilitation of and support for veterans and their families, where a veteran

³³ Words in italics added.

³⁴ By the Veterans’ Support (Code of Veterans’ and Other Claimants’ Rights) Notice 2015.

³⁵ Veterans’ Support Act 2014, section 32(1).

³⁶ Code of rights 1(c), 5(b), 8(a).

³⁷ A Veterans’ Affairs survey in 2017 found that about 60 per cent of veterans did not know about the Code.

has been injured or become ill as a result of being placed in harm's way in the service of New Zealand".

- Veterans' Affairs reminds staff of the spirit of the Code of Veterans' and Other Claimants' Rights.

Principles

Section 10(a) says every person performing any function or exercising any power under the Act, "must do so –

- a) in acknowledgement, on behalf of the community, of the responsibility for the injury, illness, or death of veterans as a result of them being placed in harm's way in the service of New Zealand;"

Other mandatory principles, to be followed in the exercise of functions or powers under the Act, are "fair entitlements", "equal treatment of equal claims", "taking a benevolent approach to claims" and "determining claims in accordance with substantial justice and the merits of the claim" and "not in accordance with any technicalities" (section 10(b)). Submitters said that, in practice, the principles were not working or were ignored.

The obligation to take a benevolent approach towards claims was the principle singled out most frequently during consultation meetings. People described a lack of benevolence in the way Veterans' Affairs applied the Act. Some called for a definition of benevolence. Others questioned how it could be benevolent to turn down a veteran's claim because of failure to meet statutory criteria. Yet many submitters, including some unhappy with the outcome of their claim, found Veterans' Affairs staff to be helpful and willing – an attitude that matched my own experience. I do not consider anything would be gained by inserting a statutory definition of benevolence.

A tension will inevitably exist between taking a generous approach towards claims and requiring a claimant to meet statutory criteria to be successful. Benevolence cannot be a justification for circumventing the Act's eligibility requirements. However, some of Veterans' Affairs' operational policies may be unduly restrictive or inflexible. I suggest Veterans' Affairs reviews its operational policies to ensure they do not introduce restrictions that are unnecessary, not required by law or inconsistent with a spirit of benevolence. Operational policies are considered in more depth in the next chapter.

I note that decisions of the Veterans' Entitlements Appeal Board usually refer to the principles and sometimes cite "the overarching benevolent intent" of the Act".³⁸ It is often not clear to the board how Veterans' Affairs staff, or a review officer, have applied the principle of benevolence in reaching a decision on a finely balanced point, such as whether a veteran's illness is "service-related" (as defined in section 7).

³⁸ *Sturrock*, Veterans' Entitlements Appeal Board decision 2016/1, para 23.

I consider that, where practicable, Veterans' Affairs should explain to claimants how it applied benevolence in their case, especially when evidence was missing. It should also make clear in its written decisions that its decision-making focused on the substance and merit of the claim, not any technicalities. This may clarify matters for unsuccessful claimants, and give them a sense of fairness about the outcome. It may also help the review officer or appeal board in assessing the merits of a claim under review or appeal.

Meeting participants and submitters also raised the principles of fair entitlements and equal treatment of equal claims. They noted that some veterans' lack of awareness of their entitlements undermined the principle of fair entitlements, and that Veterans' Affairs was not reaching all eligible clients. They did not express concern about different treatment of similar cases, suggesting that in practice the principle of equal treatment of equal claims is being achieved.

Many people pointed to the lack of fairness and equity in the availability of support for veterans with qualifying operational service when colleagues with similar non-qualifying service were ineligible for support. They also pointed to the inequity of Scheme One's seemingly more generous entitlements. Such submissions open up debate on fundamental aspects of the Act, which are matters for further government consideration. However, it is difficult to conceive of any new principle that would resolve this issue. The principles of fair entitlements and equal treatment of equal claims are therefore best retained in their current form.

Moral duty of care

Many submitters said the Defence Force owed current and former serving personnel a continuing duty of care. Veterans' Affairs itself recognises that veterans are "a specific subset of the population that is vulnerable and owed a *special duty of care* by the Government in return for their service".³⁹

"The state has always had duty of care for the service person whom they put in harm's way...This duty of care by the state should be the core of how Veterans' Affairs' is organised to deliver timely and correct support...Neither the Purpose nor the General Principles section of the Act outline the importance of this state duty of care in any way."

Veteran

Creating an overriding legal duty of care, when the statute already specifies the circumstances in which a veteran is entitled to rehabilitation and support, would not be workable or sensible, for the legal and policy reasons explained by Whata J in the *Te Ua* decision on the War Pensions Act 1954.⁴⁰ A super-imposed legal duty of care (albeit expressed as a statutory principle) could expose the state to ill-defined legal liability for harm suffered by veterans. It would create additional uncertainty about the ambit of the Act. In my view, such a change would be neither sensible nor justified.

³⁹ *Veterans' Affairs Records Appraisal Report*, 2016, p 13 (emphasis added).

⁴⁰ *Te Ua v Secretary for War Pensions* (High Court, Auckland, CIV 2014-485-000061, 10 June 2014), paras [178]-[183].

However, I consider there is a case for adding a “moral duty of care to veterans” to the principles in section 10(b). This would be an important signal of commitment to serving personnel and veterans. It would recognise that, as a matter of principle, the Defence Force assumes a moral duty to care for service people from the moment they swear the oath of allegiance, and that the state is morally obliged to ensure current and former service people receive appropriate support when they suffer physical or mental injuries as a result of their service.

If included in section 10(b) as an additional principle, the proposed moral duty of care would mean that the state – in practice, Veterans’ Affairs staff administering the Act – should not only take a benevolent approach to claimants, but should also act in a way that affirms moral recognition of their responsibility to care for claimants who have been harmed as a result of their service. Inclusion of such a principle would not, in my view, compromise the intended scope of the Act.

Recommendations

I recommend that:

- A new statutory principle recognising a moral duty of care to veterans is included in the Act.

Onus of proof

Participants at several consultation meetings said veterans no longer had the benefit of a reverse onus of proof that operated under the War Pensions Act 1954. Among veterans, a view has developed that they are now worse off because the Act makes it easier for the state to disprove liability. They attribute this erosion of their position to the way in which the statements of principles are adopted in section 14 of the Act. This is despite the continued existence of the principle of benevolence. Specifically, this “reverse onus of proof” used to place the legal burden on the state to disprove that a veteran’s injury, illness or death was service-related after it had received some evidence of disablement attributable to service. The new regime’s evidential rules had, according to this view, tipped the balance in favour of the state.

I do not believe this claim stands up to analysis of the relevant statutory provisions. Overall, claimants are better off under the new Act, and the new evidential standards and instruments have simplified the path to entitlements.

Under the Act, the eligibility for cover is clearer and simpler, and the burden-of-proof complexities of the former Act have been all but removed. The new legislation is much easier to work with. For example, the key elements of the definition of “service-related” in section 7 (“caused by, contributed to by, or aggravated by”) are simpler to apply and more generous to claimants than the concept of “attributability” under the War Pensions Act 1954.

The Law Commission noted that adoption of statements of principles and presumptive decision-making instruments would “remove the majority of the

subjective element of decision-making” in veterans’ support legislation.⁴¹ That appears to have been achieved. Most submitters familiar with the detailed operation of the new Act accept that the statements of principles, and the four steps set out in section 14, work well.

However, a submission by a former president of the RNZRSA, Robin Klitscher, argued that the Act had inadvertently made it easier for the state to disprove a veteran’s entitlement to rehabilitation and support in situations where statements of principles applied.⁴² The relevant provision, section 14(6), states: “If the hypothesis is consistent with the statement of principles, the fourth step is to accept the claim, unless there are reasonable grounds for believing that the veteran’s injury, illness or death was not service-related.”

Mr Kitscher’s submission relies in part on a legal opinion by Dr Robert Fisher QC, which concludes – in relation to the War Pensions Act 1954 – that “Once the claimant had done enough to raise a doubt about attribution, there is an onus on the Crown to prove beyond reasonable doubt that the disablement was not in fact caused or contributed to by the service, but was entirely due to other causes.”⁴³ Elsewhere in his opinion, Dr Fisher notes that the concluding words of a key section in the 1954 statute⁴⁴ “suggest that what is required of the Crown is proof beyond reasonable doubt”.⁴⁵

The application of section 14(6) has not been contested in any case before the Veterans’ Entitlements Appeal Board and remains untested in the courts. In my opinion, it is premature to conclude that the untested new provision will make it easier for the Crown to avoid liability for service-related conditions, and that section 14(6) should be amended by replacing the words “reasonable grounds” with “grounds beyond reasonable doubt”, as Mr Klitscher proposes.

In the *Keelan* case, France J noted that the Veterans’ Support Act 2014 needs to be interpreted as a new statute with its own new scheme.⁴⁶ It is reasonable to expect the courts to take a broad and benevolent approach to any questions of onus of proof under the new Act.

⁴¹ Law Commission report (2010), para 5.79.

⁴² Included in RNZRSA submission.

⁴³ Robert Fisher QC, “Evidential requirements under the War Pensions Act 1954”, legal opinion, 2 June 2010, para 60(f).

⁴⁴ Section 18(2)(c) stated as an evidential rule that “the claimant shall, in every case, be given the benefit of any doubt as to the existence of any fact, matter, cause, or circumstances that would be favourable to him”.

⁴⁵ Fisher legal opinion, para 50.

⁴⁶ *Keelan v The General Manager of Veterans’ Affairs New Zealand* [2016] NZHC 1869 at [42]. A similar approach was taken to the application of the rules of evidence under the War Pensions Act 1954 in related litigation: *Te Ua v Secretary for War Pensions* (HC Wellington, CIV 2014-485-000061, 10 June 2014, Whata J).

Given the relatively short period since the Act came into effect, and in the absence of clear judicial authority on the application of section 14(6), in my view it would be premature to recommend statutory amendment to address a speculative concern.

Veterans and claimants' responsibilities

Section 27 imposes specific obligations on those applying for or receiving entitlements and support under the Act. Although the term "responsibility" is used in the caption to section 27, the heading to subpart 4 of the Act ("Veteran's and claimant's obligations") and the wording ("must") make it clear veterans and claimants have statutory duties.

The specific duties are fairly standard for applicants for state entitlements, although some veterans expressed resentment that they are being treated like beneficiaries, and viewed this is inappropriate given their service to their country. The duties relate mainly to providing health and other relevant information in response to reasonable requests from Veterans' Affairs, and undergoing assessment, again in response to reasonable requests from Veterans' Affairs.

One duty goes further, obliging veterans or claimants ("when reasonably required" by Veterans' Affairs) to "participate in rehabilitation, including ... co-operating with [Veterans' Affairs] in the development and implementation of any individual rehabilitation plan".⁴⁷

Fifty-five respondents commented on whether the Act should place responsibilities on those receiving entitlements and support under the Act. Two-thirds considered people had responsibilities under the Act, including:

- being honest and giving accurate information to Veterans' Affairs and treatment providers
- actively following rehabilitation plans
- looking after their own health.

Thirteen respondents felt the Act should not place responsibilities on veterans. A few said their operational service should be qualification enough, and that a rehabilitation plan was not necessarily in a veteran's best interests, and might even be detrimental to his or her wellbeing.

I do not consider any legislative change is needed in this area. Although the responsibilities are better described as duties, they simply reflect Veterans' Affairs need to have relevant information so it can properly assess claims and entitlements.

The need to be honest and supply accurate information is self-evident. In my opinion, it would be counter-productive to state that veterans must look after their own health. After all, no such responsibility is placed on people using publicly funded healthcare and disability services. It is also self-evident that effective rehabilitation depends on a veteran's co-operation in preparing and implementing a rehabilitation plan, although

⁴⁷ Section 27(2)(c).

clearly Veterans' Affairs must tailor plans to the age and circumstances of the individual veteran.

Moderate exclusion provisions

The Act sets out circumstances that exclude or limit entitlements and support under the Act. The intention is to preclude service-related assistance for any injury, illness or death that was not sustained in the course of service. The exclusion provisions are:

- while a veteran is a deserter or absent without leave
- while a veteran is committing an offence (or, if overseas, conduct that would be an offence in New Zealand)
- a self-inflicted death (for Scheme Two cover)
- injury, illness or death predominantly caused or significantly aggravated by alcohol or tobacco use, caused by misuse of illegal or prescription drugs, or contracting a sexually transmitted disease (for Scheme Two cover).⁴⁸

Injury or illness “due wholly or substantially to the ageing process” is also excluded.⁴⁹ This is consistent with similar exclusions under accident compensation legislation. Some submitters believed the “ageing process” exclusion is discriminatory, lacks benevolence and does not reflect the fact that veterans often age more rapidly and are more susceptible to some conditions. However, the qualifying words “wholly or substantially” gives Veterans' Affairs appropriate discretion – to be exercised benevolently – to differentiate service-related health issues from age-related health issues.

The exclusion while the service person was briefly absent without leave or committing a minor offence is unduly punitive compared with comparable provisions in Australian law and the ACC scheme.⁵⁰

Section 28(2)(a) allows a veteran to receive Scheme Two entitlements if experience during their service caused or aggravated a psychological condition that led to excessive use of alcohol or tobacco, misuse of drugs, or illicit sexual behaviour. However, given possible ambiguity in the application of section 28(2)(a) to alcohol use disorder, I suggest a clarification of the non-exclusion as follows:

“the illness, injury or death was due to *or is* a psychological condition that was attributed to or aggravated by the experiences of the veteran during qualifying operational service”.⁵¹

⁴⁸ Section 28(1).

⁴⁹ Section 28(4).

⁵⁰ The Australian exclusion applies only to a “serious breach of discipline” (Military Rehabilitation and Compensation Act 2004, section 32(1)(b)) and the ACC exclusion applies only to an injury while the claimant was committing an offence punishable by a maximum of 2 years or more imprisonment (Accident Compensation Act 2001, section 122(1)).

It is also ambiguous whether section 28(2)(a) may be interpreted to cover a sexually transmitted disease resulting from sexual behaviour triggered by a service-related psychological condition (that is, not only a sexually transmitted disease contracted during a sexual assault, which is covered by section 28(2)(b)).⁵² A benevolent interpretation of section 28(2)(a) would permit Veterans' Affairs to provide entitlements for illness related to a sexually transmitted disease in exceptional cases other than sexual assault.

Section 29 bars claimants who are otherwise entitled to support and rehabilitation from receiving entitlements "while the claimant is a prisoner in any prison".⁵³ I am concerned by the punitive nature and potentially harsh impact of this exclusion. It punishes not only the veteran but also family members. A veteran's children, for example, will lose their bursaries if the veteran goes to prison. There is no logic to this approach – such veterans still served and they and their family experienced the impact of that service. Family members in such cases are likely to be in a worse financial position than before the veteran's imprisonment.

Recommendations

I recommend that:

- Section 28(2) of the Act is amended by adding a further exception, (c), to cover situations where Veterans' Affairs is satisfied on reasonable grounds that it would be unjust to exclude cover solely because the claimant was briefly absent without leave or committing a minor offence.
- Section 28(2)(b) of the Act is amended to read: "the illness, injury or death was due to or is a psychological condition that was attributed to or aggravated by the experiences of the veteran during qualifying operational service".
- Section 29 of the Act is revised to clarify that dependants of a veteran are not, by virtue only of the veteran's imprisonment, to be denied any entitlements for which they would otherwise qualify.

⁵¹ Words in italics added.

⁵² Section 28(2)(b).

⁵³ A similar disentitlement provision can be found in section 121 of the Accident Compensation Act 1991.

Improving the system

Introduction

Since 2008, Veterans' Affairs has been an operational unit within the Defence Force, although it operates independently and has separate premises. It does, however, receive corporate support from the Defence Force, and its General Manager reports to the Defence Force's Chief People Officer.

Veterans' Affairs had about 90 staff before the 2014 reforms (compared with 65 now). Few of its systems were automated. There were two offices – one in Wellington and one in Hamilton. The Hamilton office was originally a unit of the Ministry of Social Development and was responsible for managing war pensions. Its functions were transferred to Veterans' Affairs in 2008.

The Act's introduction was followed by significant structural and administrative changes at Veterans' Affairs. The Hamilton office was closed, and all remaining staff moved into the single Wellington office. A new information technology system (encompassing client records and payment functions) was introduced, and teams were set up under the functions of rehabilitation, case management, enquiries, business services, decisions, policy, and projects and communication. New operational policies were developed, along with regulations for Scheme Two and a Code of Veterans' and Other Claimants' Rights. Master service agreements replaced a plethora of individual contracts for home help and other independence services. Memorandums of understanding were also completed with various government agencies. Finally, the Veterans' Entitlements Appeal Board, Veterans' Advisory Board and Veterans' Health Advisory Panel were set up.

Today, Veterans' Affairs has an annual operating budget of about \$10 million and disburses about \$115 million of entitlements, services and supports a year.⁵⁴ Its staff look after 12,000 clients, handle 38,000 phone calls a year and process about 1,400 entitlement applications a year. Those applications cover about 2,200 claims, over two-thirds of which are typically approved.

Veterans' Affairs continues to make improvements to its processes. These include making enhancements to its information and payments system, implementing a plain English standard in all communications, making application forms simpler and easier to read, improving its website, and reviewing the way it manages cases. In conjunction with other agencies, it has also developed a rehabilitation strategy covering the next three years.⁵⁵ The strategy aims to deliver trusted, integrated and holistic veteran-centric rehabilitation services and support. The action plan that sits beneath the strategy is aligned with this review's findings and recommendations. For

⁵⁴ The Ministry of Social Development separately disburses about \$162 million for the Veteran's Pension.

⁵⁵ Veterans' Affairs New Zealand, *Draft Veteran Rehabilitation Strategy 2018 – 2021* (March 2018).

example, it includes initiatives to increase general practitioners' understanding of veterans' needs and investigation of an online hub for veteran information.

Feedback

Many people told the review that the magnitude of the changes and the resources needed to implement the new legislation were severely underestimated. A lack of sufficient case managers was one sign of this underfunding, they said.

Most veterans felt the expectations on them to supply supporting information and evidence were too high. They wanted better use made of information already held by Veterans' Affairs and the wider Defence Force, more information-sharing between agencies (notably between the Defence Force, ACC and general practitioners), and automatic registration in the system.

People said the new information and payments system provided only very basic information, had limited reporting capabilities, did not always supply current or accurate information, and was generally not up to the job expected of it.

Many people said application, assessment, approval and reimbursement processes were administratively difficult, and decisions took too long. Some people had been waiting more than six months for decisions.

"All [the] forms are too complex and repeat themselves to the extent that it just confuses the older guys trying to fill them out let alone me trying to help."

Veteran and advocate

Veterans frequently said the processes they had to go through to get health and support services were difficult and bureaucratic. They cited as a typical example the requirement to get a referral from a general practitioner to see a specialist when they were already seeing a specialist.

People said Veterans' Affairs could do better on the communications front generally. Younger veterans sought better information on planning a transition out of the Defence Force. Veterans as a whole felt communication could be more responsive and comprehensive. Older veterans in particular disliked the failure to acknowledge documentation, receipts and payments. They also disliked the lack of face-to-face contact with case managers. Younger veterans wanted to be able to use new online technologies and social media for communication.

"...a major reorientation of VANZ processes needs to be considered – towards a proactive, outward looking organisation from the present inward facing, non-communicative group that relies on telephone and email communication instigated by the Veteran..."

Veteran

There were also calls for better help in making applications, tracking their progress, obtaining advocacy, making appeals (where applications were rejected), and generally dealing with the various agencies in the veterans' system.

For all those criticisms, however, many veterans and their families were very positive about the individual staff members with whom they had dealt, and considered they had received a good service from Veterans' Affairs.

“Finally, I must say that when my wife and I recently had dealings with Veterans' Affairs this was, we thought, very positive. The case manager volunteered help we knew nothing about. This is the help that changes one's thinking about the bureaucratic process and those who administer it. It is the empathy I've been expressing throughout this submission.”

Veteran

Findings

There can be no doubt the size and complexity of the changes required of Veterans' Affairs were far greater than anticipated, leaving the organisation with continuing challenges to overcome. It faced a mammoth task to keep up entitlements carried over from the previous Act for Scheme One veterans while trying to implement organisational and system changes for a new scheme emphasising rehabilitation and independence. The demands of the change clearly left Veterans' Affairs with little capacity to focus on human interaction and the needs of veterans. As many people noted, the needs of Scheme Two veterans are often very complex – and accordingly very demanding on staff time, as the case study below illustrates.⁵⁶ Much work remains to be done. I have grouped my findings under three broad categories:

- structure and people
- processes, policies and information
- rationalising statutory bodies.

⁵⁶ The case is fictional, but based on typical scenarios dealt with by Veterans' Affairs.

Ben's story

Ben, a veteran of East Timor service, has post-traumatic stress disorder and a major depressive disorder. He lives in Australia, has two former partners, and is a father of two children. He owned a business but went bankrupt and did not declare income for two years. He stopped working in 2017 and began receiving weekly compensation from Veterans' Affairs. Ben has a rehabilitation plan and sees a psychologist. He also gets help with his finances from a social worker.

He recently started work again. As a contractor, his hours vary from week to week, making it hard for Veterans' Affairs staff to assess his full earnings and abate his weekly compensation accordingly, because they need to:

- establish what his normal working life is like, what his previous working capability was, and what evidence he has of having recovered to his full capacity – if indeed he has
- obtain information to establish whether he should be on the minimum payment rate or a higher rate
- know whether his current hours of work reflect his normal working week and, if not, what capacity he is working to.

There is a risk Ben could end up with a debt if staff do not adjust his income correctly. To complicate matters, Ben is subject to Australian tax laws. The Act requires any abatement to be determined in New Zealand dollars. Veterans' Affairs' IT system accepts New Zealand dollars only, so staff must factor in the exchange rate. They must also make payments manually on pay run days because the IT system cannot do this automatically.

Note: For the first year of incapacity, weekly compensation is paid at 100 per cent of a veteran's earnings before the injury or illness in question. After that, the rate is 85 per cent (at not less than 80 per cent of the average wage). If a veteran resumes part-time work, Veterans' Affairs must reduce the veteran's entitlement so his or her combined earnings do not exceed the rate of payment for weekly compensation.

Structure and people

Structure and funding

Some members of the veteran community believe Veterans' Affairs lacks visibility and independence and cannot set its own priorities because it is part of the Defence Force. They distrust the Defence Force and look to Veterans' Affairs to be the prime guardian of their interests. Unlike many other countries, Veterans' Affairs is not a stand-alone organisation separate from its defence counterpart. It is important Veterans' Affairs operates independently of the Defence Force because the latter's top priority is defence, not veterans' welfare.

A recent Defence White Paper describes the Defence Force's 10 principal roles, and not one relates to the rehabilitation and support of veterans.⁵⁷ The Defence Force's priorities, quite properly, are about combat readiness in defence of New Zealand and its interests.⁵⁸ Veterans' welfare cannot compete with defence and security. Nor can Veterans' Affairs, as a small agency, compete on an equal footing for funding. The veterans' affairs and defence funding votes were merged in 2014. This means that Veterans' Affairs must compete for contestable funding on the basis of strategic priorities.

Veterans' Affairs' efforts to offer more services via the phone and internet have been hampered by its dependence on Defence Force networks, where the emphasis is on security rather than on the outward-facing flexibility Veterans' Affairs needs. It pays \$1.2 million of its \$10 million operating budget to the Defence Force to cover corporate overheads. It also pays rent and IT support, along with the cost of any IT enhancements.

The low priority given to veterans, the lack of protection for Veterans' Affairs' funding within the Defence Force budget, and the substantial reduction in staff numbers since the Act took effect are all matters of significant concern because they compromise the administration of the Act, and will continue to do so unless addressed.

In my view, Veterans' Affairs would not be viable as an independent organisation. The country's veteran population is too small. Veterans' Affairs should be benefitting from the infrastructure support provided by sitting within a larger organisation, especially one that understands the special needs of veterans and can collaborate on matters of joint interest, such as transition arrangements and support for families. To realise these benefits there needs to be far greater awareness of Veterans' Affairs within the Defence Force, and priority given to supporting its operation. I consider the funding arrangements should be set up differently in order to protect Veterans' Affairs' resources.

Recommendations

I recommend that:

- The Government considers either ring-fencing Veterans' Affairs' budget or establishing a separate funding vote for Veterans' Affairs.
- The Defence Force gives greater priority to veterans' issues and providing adequate support infrastructure for Veterans' Affairs.

Staff and resources

Veterans' Affairs staff are dedicated and passionate about improving veterans' lives. Many people said that their interactions with Veterans' Affairs staff were excellent.

⁵⁷ Ministry of Defence, *Defence White Paper 2016* (2016).

⁵⁸ New Zealand Defence Force, *Strategy 25: Integrated Defence Force* (March 2018).

It has become clear to me during the course of this review that the organisation is under-staffed and under-resourced to deliver the entitlements, services and support for which it has responsibility. Indeed, I question whether it has ever been adequately resourced to carry out the job it was set up to do, and this is apparent in many areas of the organisation.

The nature of case management work is changing. Rehabilitation plays a bigger role. There is also increased awareness and acknowledgement of the impact service can have on people's mental health. Research suggests that one in six individuals will develop some form of long-term mental health or addiction problem arising from experiences during deployment. These conditions can arise years after service and be long-term or permanent. Moral injury is also common.⁵⁹ Veterans can even be traumatised by situations viewed remotely with the aid of latest technology.

Different generations present different problems. For older veterans, intensive case management may involve arranging surgery and appointments with medical specialists. For younger veterans who have had shorter, more frequent deployments (often at short notice), it is also likely to involve managing mental health or addiction problems arising from experiences during deployment.

Veterans' Affairs is currently looking at how it can offer case managers more support. It is reviewing their workload and the complexity (and hence, intensity) of their cases before making recommendations about the size and structure of the case management team. Recommendations will consider the best way to balance complex and less complex cases to make workloads manageable and give case managers a variety of work. Veterans' Affairs will draw on Canada's recent experience in implementing a new case management model. In my view, the number of case managers needs urgent evaluation, as part of a broader resourcing review.

Many veterans said Veterans' Affairs should employ more people with a military background because they understood veterans' needs. This is something Veterans' Affairs is considering as part of its rehabilitation strategy. Two of the current case managers have military experience, and several are the sons, daughters or partners of current or former serving personnel. The rest have strong case management experience from other agencies or sectors, such as ACC and Work and Income.

People reported waiting a long time for decisions on their applications. Many delays were due to a backlog in making decisions and a lack of resources to implement them. I comment on statutory timeframes for decisions later in this chapter. Veterans' Affairs has increased the number of decisions officers, but there needs to be a downstream increase in resources in the business services team to implement the decisions.

Deficiencies in the IT system place additional heavy demands on the business services team, which processes payments and reimbursements. The team handles

⁵⁹ Moral injury refers to an injury to an individual's moral conscience resulting from an act of perceived moral transgression that produces profound emotional shame – for example, witnessing an act in combat or peace-keeping that transgresses beliefs about what is right or wrong.

up to 50 new applications a week, and up to 200 travel and treatment reimbursements a week.⁶⁰ It is struggling to keep up with the volume of work, much of which entails manual processes. The team is also coming face to face with the complexities of Scheme Two. The difficulties of adjusting weekly compensation payments, for example, suggest the need for financial skills training and a closer relationship with the Inland Revenue Department (with which an information-sharing agreement is being drawn up). In general, this team needs more administrative staff and better IT support.

Veterans' Affairs has a team of four allied health professionals responsible for providing rehabilitation services to mainly Scheme Two veterans. The number of veterans on rehabilitation plans has doubled in the past six months (from 20 to 40), and demand is only likely to grow with time – and quite significantly.

Canada and Australia are experiencing similar resourcing problems to New Zealand. In response to the recent inquiry into suicide and mental health risks for Australian veterans,⁶¹ the Australian Government recently allocated additional funding to reduce the backlog of claims, and increase staff to respond to complex client needs, including case managers.

Recommendations

I recommend that:

- Veterans' Affairs is resourced so that it has the operational capability and capacity to carry out the job it was set up to do.

Training

Many veterans expressed concern at how few general practitioners and other health practitioners understand their needs. Similar concerns were raised about the staff of Veterans' Affairs.

As part of its rehabilitation strategy, Veterans' Affairs is looking to:

- increase the proportion of staff with military experience
- prepare a case, with the Ministry of Health, to include a question about military service on general practice enrolment forms (potentially allowing Veterans' Affairs to gather more information on the health of the veteran population)
- investigate a preferred providers list of general practitioners and other health practitioners who understand veterans' needs
- work with the Royal New Zealand College of General Practitioners and the RNZRSA on training general practitioners in veterans' health needs

⁶⁰ One application may involve several payments for different purposes and conditions.

⁶¹ Australian Foreign Affairs, Defence and Trade References Committee Senate Inquiry, *The Constant Battle: Suicide by Veterans* (2017).

- improve how it communicates information about veterans' needs to primary care providers.

These measures align well with suggestions made during the consultation process, and should be suitably resourced and implemented as a priority.

Some veterans said a more personal and holistic face-to-face approach would be more responsive to the needs of Māori veterans and their families. They felt there was minimal help specifically for Māori. The lack of Te Reo speakers and understanding of Māori protocols was criticised. Submitters suggested mārae-based consultation meetings involving the community, iwi and hapū, and establishing a Te Ao Māori desk and Pasifika desk within Veterans' Affairs.

All Veterans' Affairs rehabilitation advisors and case managers receive cultural training. Veterans' Affairs met with the Iwi Leaders Forum in 2017 to discuss how to improve its interaction with Māori veterans and their families. Discussions included ways to improve links with local communities, mārae, iwi and hapū.

Recommendations

I recommend that:

- Veterans' Affairs continues to build skills related to veterans' needs, including:
 - investigating inclusion of a question about military service on general practice registration databases
 - general practitioner and specialist training
 - training for its own staff
 - more Māori/cultural support.

Processes, policies and information

Automatic registration

Current processes for veterans to register and claim entitlements are cumbersome and need to be simplified. Canada is looking to do exactly that through its Red Tape Reduction Action Plan. An obvious first step is automatic registration of veterans. Although the Government decided that the Defence Force should keep a register of all veterans known to be exposed to certain factors during qualifying operational service,⁶² no additional funding was provided, and a register has not been set up.

Many veterans said automatic registration should happen when they leave the Defence Force, and were surprised this doesn't already happen. It would give Veterans' Affairs a complete and up-to-date picture of who is eligible, and enable it to predict demand and take the initiative in contacting veterans. The Defence Force and Veterans' Affairs are currently looking at how a register might be established. A lack

⁶² See Cabinet decisions recorded in SOC Min (12) 21/6G and CAB Min (12) 35/6.

of historical and/or electronic files may complicate this project, making it necessary to draw a line in the sand about a start date for recording veterans' information.

The Defence Force holds service records, but they are held across five databases. Each was set up independently and for different purposes, making it difficult to cross-analyse data or to share information with Veterans' Affairs – something any new system should be able to do as soon as an individual has qualifying operational service. Confidentiality and privacy safeguards will obviously be necessary.

Recommendations

I recommend that:

- Veterans' Affairs and the Defence Force work to establish a register of all veterans, their service, their deployments, environmental and other risks they may have been exposed to, and any service-related conditions.

Transition support

Many veterans and currently serving personnel described a good transition from the Defence Force as critical to their long-term health and wellbeing, and their ability to access entitlements, services and support.

People suggested veterans should receive a package of information when they left the Defence Force about how to apply for support from Veterans' Affairs. They said there should also be a referral to a Veterans' Affairs case manager and an introduction to an advocate. Finally, there should be a comprehensive handover of their medical records and other relevant information to Veterans' Affairs.

The camaraderie and network of fellow service personnel is often lost when returning to civilian life, and a few people suggested former personnel should be encouraged to remain in contact with the armed forces through their bases and camps. There is a widespread, and not unreasonable, expectation that the Government will support Defence Force personnel when they leave the armed forces for civilian life.

A service career differs from most others because it offers an all-encompassing way of life and its own culture and expectations. This means some people can experience difficulties when they leave the military. A successful transition for veterans requires the broadest possible approach to enable reintegration into civilian life, including community networks and resources for veterans and their families.

The Defence Force offers some transition support, but it is not available to all veterans. In my view, transition support is an integral part of the Defence Force's responsibilities and extends to all veterans. It currently provides a transition seminar for service personnel who have at least 12 years' service, or are medically discharged after a minimum of five years' service. It also provides resettlement study assistance to service people with at least 16 years' service. One of its strategic goals is to provide seamless support and services to Defence Force staff before, during and after transition. This is commendable.

In Australia, the Government made a commitment in 2017 to improving the transition of Defence Force staff by offering annual mental and physical health checks, personalised case management, a payment to veterans with little or no financial support, and work experience with an outside employer.⁶³

Based on the transition support already available to some service people and the transition support offered overseas, I believe that, at a minimum, transition support should include the following:

- vocational support, including career counselling and identifying transferrable skills, writing a CV, job search training, and preparing for a job interview
- financial advice
- family relationships
- social connectedness and community networks
- practical advice on how to access community services (such as how to enrol with a general practitioner)
- help with transferring medical records to a veteran's new general practitioner
- physical and psychological wellbeing
- information about services and support available at Veterans' Affairs and a referral process.

In a trial that began in February 2018, the Defence Force and Veterans' Affairs have been sending information about Veterans' Affairs' role to all veterans leaving for civilian life. The Defence Force has been providing a weekly list of discharges and from this Veterans' Affairs has been identifying those who are covered by the Act. It is then phoning veterans – a step that has been well received by veterans – and it plans follow-up calls in another six months.

This focus on improving transition support is laudable and needs to be expanded. I consider that, as a minimum, all veterans should receive transition support, not just those who meet the 12-year service requirement.

Recommendations

I recommend that:

- Veterans are identified and offered effective transition support when leaving the Defence Force for civilian life.

Information and updates

As already discussed, people told the review they did not know they were eligible for services and support through Veterans' Affairs. Those who did know, and applied, said they weren't kept sufficiently informed about the progress of their applications, particularly if there were delays. Veterans said during consultation meetings that they wanted more regular check-ins from their case managers. A few people said written

⁶³ Australian Government, *Australian Government Response to the Foreign Affairs, Defence and Trade Committee Report: The Constant Battle: Suicide by Veterans* (2017).

communication was often patronising in tone. Many veterans said they wanted more comprehensive and more frequent information across the board, including via online channels and social media.

Veterans' Affairs is already taking positive steps on these fronts, including improving its website content, examining how to use social media such as Facebook to communicate with veterans, promoting Veterans' Affairs' work at bases, visiting veterans' rest homes, and looking at an online platform for veteran information. Another welcome recent measure is regular phone checks with veterans and partners who are over 80. This should be extended to veterans with complex needs. Elsewhere in this report, I have identified other areas where Veterans' Affairs can improve its outreach communication.

Application process

Many people said the entire application and reimbursement process was needlessly difficult, and that decisions took too long. Veterans reported expending a lot of time and emotional energy on the process. It is worth noting that Veterans' Affairs, in turn, spends a lot of time tracking down information to support applications because of poor record-keeping by the Defence Force. Problems identified by veterans, their families, advocates and Veterans' Affairs staff included that:

- forms were hard to understand and complete
- forms repeatedly sought the same information
- the two schemes' forms had confusing inconsistencies
- eligibility criteria were complex
- missing information delayed decisions
- evidence required to support a claim was unclear and often difficult to obtain
- forms sometimes failed to ask the right questions
- questions about service should be redundant, because Veterans' Affairs should already have a veteran's service details from the Defence Force.

Veterans' Affairs is simplifying its forms so they are concise, easy to understand and complete. A group of veterans is contributing ideas and testing proposed changes. In doing this work, Veterans' Affairs should consider whether a form is even necessary in some cases, for example, where a veteran is already in the system and has many recognised service-related conditions.

Online and phone applications

Moving to online applications would also be an improvement – and something younger veterans want. They would like to be able to make applications (as well as complete other processes) electronically and via the phone, and even via text. All these methods should be considered.

Australia and Canada have online application systems and online accounts – 'My Account' and 'My VAC Account' respectively. These accounts allow veterans to securely log in and access their information. Canada and the United States recently set up phone applications to give veterans with mental health conditions easy access to mental healthcare. Canada has a mobile application with information about post-

traumatic stress injury, tools for screening and tracking symptoms, tools to help handle stress symptoms, and direct links to support and help. Australia is considering a phone application to help veterans work out whether they are eligible for services.

Veterans' Affairs is drawing on Australia's experiences to change its own processes. In particular, it would like to allow veterans to check their eligibility for services online, and to set up an online account so they can access their information.

Veterans' Affairs should continue work aimed at improving its communication with veterans and, as a priority, examine the use of modern technologies, including online applications, setting up an online account for veterans, and using mobile phones and social media to communicate with veterans. Progressing this work quickly may require more resources.

Some veterans and serving personnel said they hoped there would eventually be a veteran's card that electronically stored their personal details and service-related conditions, entitlements, services and support. This merits consideration at a future date.

Recommendations

I recommend that:

- Veterans' Affairs explores the use of modern technologies, including online applications, setting up a "My Account", and using mobile phones and social media to communicate with veterans.

Advocacy and support

Veterans and their families need better independent help with making applications and better advocacy support with claims. The contribution of organisations such as the RNZRSA and No Duff is invaluable and highly appreciated. Without their help, Veterans' Affairs would struggle to do its job with its current resources. However, the skills and knowledge of advocates and others varies widely. Welfare and advocacy support advisers are largely volunteers. They work hard on behalf of those seeking entitlements, services and support. They also help with appeals. The volunteers, especially those who work with the RNZRSA, are ageing. There is risk that adequate numbers of younger individuals will not replace them.

During the past 18 months, the RNZRSA has done a lot of work training and backing up its district support advisors, who now act as gatekeepers to local support advisors. This should lift the standard – and consistency – of help for veterans and their families. A few dedicated RSA regional advocates have also taken up a training offer from Veterans' Affairs. The training covers the Act, the application and decision-making process and appeals.

Some submitters suggested a dedicated budget and resources for such training. In other sectors, both in New Zealand and overseas, staffing of advocacy services ranges from fully funded, professionally trained advocates to part-time volunteers. In Australia, the Department of Veterans' Affairs has a training and accreditation scheme for some of its advocates, who are drawn from former service organisations.

In response to the recent inquiry into suicide and mental health risks for Australian veterans,⁶⁴ the Australian Government has agreed to a study of possible models for putting veterans' advocacy services on a professional footing. This includes looking at Canada's Bureau of Pensions Advocacy, which employs legally trained public servants.

The complexity of the new Act makes it vital, in my view, that existing advocates receive more training and resources so they can offer more effective, more consistent and better-quality support. I do not envisage a legal model like Canada's. My suggestion is to build on the current advocacy arrangements with the RNZRSA and No Duff to create a model that offers support in person to veterans as early as possible and connects veterans to Veterans' Affairs and other agencies. This may result in a change in the role and approach of advocates, and also require further resources.

Recommendations

I recommend that:

- Veterans' Affairs investigates advocacy models and the infrastructure needed to build a professional, well-trained advocacy workforce.

Decision times

Many people were unhappy about the time it took to make decisions. Some had waited six months or more – clearly unacceptable unless a great deal of extra information was sought. The Act sets a limit of 30 working days.⁶⁵ Some people felt there should be more flexibility about the limit, and that urgent applications should get priority, such as for terminal lump sums or treatment of mental health conditions. Some respondents suggested for non-urgent applications there be a 60 or 90-day limit. Thirty days is relatively short compared with other systems. ACC claims must be processed within four months. The Australian Department of Veterans Affairs has five months to make decisions.

Veterans' Affairs tries to be as responsive as possible, and triages urgent applications. Increasing administrative staff numbers and further development of the IT system to support case management and claims administration should help speed up decisions, but I have reservations about the feasibility of the 30-day limit for complex claims. A longer deadline, such as 90 days, might work, but would need guidelines about what constitutes a complex case.

Graduated timeframes are an option (for example, five to 10 days for urgent cases; 30 days for non-urgent cases of low complexity; 60 days for non-urgent cases of medium complexity; and 90 days for non-urgent cases of high complexity). However,

⁶⁴ Australian Foreign Affairs, Defence and Trade References Committee Senate Inquiry, *The Constant Battle: Suicide by Veterans* (2017).

⁶⁵ Section 11. The 30-day period excludes any time needed to obtain more information to support a decision on a claim.

I am not convinced this would work in practice. It could lead to complicated coding and reclassification of cases and take time away from assessment and decision-making.

In Canada, decisions must be made as expeditiously as the circumstances and considerations permit. This seems a sensible example to follow.

Recommendations

I recommend that:

- The 30-working-day limit for decisions is removed from the Act, and that Veterans' Affairs is required to make decisions as quickly as reasonably practicable, and to keep veterans informed about progress with decisions.

IT improvements

Veterans' Affairs new IT system doesn't do what is needed of it. It provides very basic information and questionable data, and has limited reporting abilities. Staff cannot, for example, easily pull together a comprehensive picture of a veteran's needs, entitlements, services and support. It is also difficult to generate a report on veterans with particular needs or a particular demographic (for example, all veterans on weekly compensation). Improved data would enable better understanding of patterns and trends, and help with planning.

The IT system is an off-the-shelf package called Fineos. It is intended for insurance claims, rather than case management. ACC uses it. At the time, Veterans' Affairs wanted a stable platform for payments, automation of some processes and good analytics. The old system was about to collapse, and Fineos was introduced hurriedly. There were few user specifications and little user testing before the system went live. Scheme Two's requirements (such as complex calculations to arrive at weekly compensation for veterans unable to work) weren't understood at the time. Staff still spend a lot of time entering the same information in different fields.

The system also makes reimbursement processes for travel and treatment costs burdensome and labour-intensive. Veterans must submit receipts, and staff must manually check claims. More investment is needed so it can issue remittance advice to veterans (which is why veterans are frequently confused about what payments have gone into their bank accounts). Staff spend a substantial amount of time on workarounds and fixing defects rather than enhancing the system.

A review in 2016 found the system was stable and capable of delivering what Veterans' Affairs needed. Many of the problems have arisen because the system is only half installed. More capital investment is needed to allow some customer self-service, automation of some processes and introduction of better analytics. The result would be better information for veterans, case managers, decision-makers and planners.

Recommendations

I recommend that:

- Veterans' Affairs is resourced to complete implementation of its information technology system.

Operational policies and use of discretion

Some submitters felt that Veterans' Affairs' operational policies were rigid and undermined the Act, particularly the principle of benevolence. Veterans' Affairs has been reconsidering and softening some of its previous policies, such as clarifying that the children's pension can be paid to children living overseas, and permitting payment of a terminal lump sum after a veteran's death, provided an application had already been lodged. A few procedural requirements have also been eased, such as allowing a veteran's general practitioner to give information directly to Veterans' Affairs about waiting times for elective surgery, without needing to request the information from the local district health board.

Despite recent promising signs, I am not convinced Veterans' Affairs staff always fully use the discretion available to them. The Act is not always as restrictive as it is interpreted to be and there are many places where the Act permits discretion. One example is vocational rehabilitation assistance. Veterans' Affairs can make vocational rehabilitation assistance available to a spouse or partner for longer than three years if it considers this appropriate.⁶⁶

The principles of fairness and equal treatment of equal claims have guided the development of operational policies. These policies should not be applied rigidly. If the circumstances of a case merit a variation to the normal approach set out in an operational policy, and the Act permits such flexibility, then Veterans' Affairs should handle the case differently.

Veterans' Affairs' general approach is pragmatic. When a novel case arises, a team meeting is convened to determine the appropriate course of action. An assessment is also made of whether such cases warrant a change to the relevant operational policy. However, I believe a review of Veterans' Affairs' policies and processes would ensure they align with a generous application of the principles under the Act, and the flexibility and discretion permitted under the Act. Any changes to policies would need to be clearly communicated to staff so that policies and practice align.

Recommendations

I recommend that:

- Veterans' Affairs reviews its policies, process and practices, to ensure that they align with a generous application of the principles under the Act, consistent with the flexibility and discretion permitted by the Act.

⁶⁶ Section 91(2).

Travelling and living overseas

This is an area where operational policies are more stringent than necessary. The Act is specific about what is available to veterans living overseas, but does not mention veterans temporarily out of the country. Veterans' Affairs continues financial entitlements during a veteran's temporary travel overseas, but its policy is not to pay for treatment, rehabilitation or other supports during that time. This is likely to rule out overseas travel for some veterans who cannot get (or afford) travel insurance for service-related conditions.

No government agency covers the treatment and rehabilitation costs of New Zealanders who become injured or ill while *travelling* overseas. However, the continuation of agreed treatment, rehabilitation and support for approved pre-existing conditions and disabilities is a different matter. International travel is accepted as part of modern life, and that includes people with disabilities. The Ministry of Health will continue to fund some support (such as personal/attendant care) for clients with long-term disabilities who travel overseas for up to three weeks.⁶⁷ Such people can maintain their independence and take part in activities often enjoyed by other New Zealanders.

I recommend that Veterans' Affairs reconsiders its operational policy covering overseas travel. As part of this process, it should investigate whether:

- it should continue to fund planned (and relevant) treatment, rehabilitation and other independence support while veterans are temporarily overseas, and under what circumstances
- this support should have a time limit, a financial limit or any other cap and/or require approval beforehand from Veterans' Affairs
- it would want to have the option, for administrative ease, of arranging and providing this assistance directly or making a payment in kind
- it should provide some cover for unplanned situations related to a veteran's service-related conditions (whether by funding the cost of travel insurance directly related to a veteran's service-related conditions, or by offering discounted insurance to a veteran through a preferred provider).

Veterans' Affairs is substantially more generous to people *living* overseas than any other government agency in New Zealand. ACC, for example, will continue weekly compensation payments when a client moves overseas, but will not pay for any treatment or rehabilitation, and clients have to pay themselves to travel back to New Zealand for any assessments.

Veterans living overseas are eligible for all entitlements in the Act except the children's bursary and veteran's pension (which is aligned to New Zealand Superannuation payments). Respondents supported veterans and their families receiving entitlements while overseas.

⁶⁷ Home and Community Support Services Operational Policy (February 2017).

In two places, this generous approach is inconsistently applied. Section 59(2) says Scheme One veterans living overseas are responsible for paying the costs of assessing whether they are unable to work full-time in order to receive weekly income compensation. This approach is inconsistent with arrangements under Scheme Two, and there are also other, more general provisions Veterans' Affairs can apply. Veterans should not have to pay assessment costs purely because they live overseas. The second area, extending the children's bursary to veterans living overseas, has been previously dealt with.

Both veterans and Veterans' Affairs need to be tolerant and show good faith in working through any problems that arise in arranging and delivering suitable services and support in foreign countries.

There needs to be better information about what happens when a veteran moves or lives overseas. While the entitlements available to veterans living overseas are specified in the Act, they are included as part of the arrangements for each individual entitlement. As a result, they are scattered throughout the Act and difficult to find. This approach is mirrored in Veterans' Affairs' operational policies for specific entitlements, and makes it very hard for veterans to get a comprehensive overview of what happens if they move, or are already living, overseas. Veterans living overseas or considering living overseas, need accessible information on what entitlements, services and support they are eligible for, how to apply, and what other special considerations or obligations may apply.

Recommendations

I recommend that:

- Veterans' Affairs reviews its operational policy covering overseas travel.
- Section 59(2), which requires veterans living overseas to pay the costs of assessing their ability to work full-time, is removed from the Act.
- Veterans' Affairs prepares easily accessible information for veterans living, or considering living, overseas.

Information-sharing and collaboration

Veterans have high expectations that their information will be shared appropriately across agencies, so that the burden doesn't fall on them.

Defence Force: Many people said that providing Defence Force records about relevant illnesses or injuries resulting from qualifying operational service should automatically make them eligible for veterans' support. The Defence Force could, I believe, work more closely with Veterans' Affairs in sharing health records, collaborating on improving mental health, supporting families, and making better transition arrangements. It is good to see that Defence Health is working with Veterans' Affairs to develop an opt-in system to share and lodge individual Defence Force records with Veterans' Affairs and a PIN to access and add to medical records. Such practical initiatives go a long way to improving access to support. Veterans' Affairs is also working with Defence Health to develop a simple agreement for areas of common interest.

ACC: Veterans' Affairs and ACC already have a close working relationship, but it needs to be closer. Veterans told me they got sick of telling their stories twice – first to ACC, then to Veterans' Affairs. Areas where the two agencies could collaborate include appointing a lead agency or case manager, conducting joint or streamlined assessments, and carrying out joint training. If my recommendation is adopted to make Veterans' Affairs the single point of contact for veterans with complex needs (should they so choose), there will need to be clear information-sharing and funding-transfer agreements.

In 2015, the agencies signed a memorandum of understanding to co-operate on rehabilitation services for veterans. The agreement requires them to agree on their roles and responsibilities for providing entitlements, support and services to veterans, remove duplicated applications, ensure continuity of care for veterans, and consider an information-sharing agreement. Thirty eight⁶⁸ veterans currently receive Scheme Two support involving both agencies, and this number is sure to rise with time. These veterans usually have a case manager who looks after claims shared between Veterans' Affairs and ACC. Veterans' Affairs generally takes the lead and tops up ACC payments.

Pragmatism should be applied. If Veterans' Affairs is a veteran's first port of call, it should wherever possible accept that person without requiring him or her to contact ACC. Both agencies' rehabilitation teams have regular meetings to discuss cases, new developments and best practice for rehabilitation. These sensible arrangements must continue.

Inland Revenue: The complexities of calculating abatement of weekly compensation, the effect of income top-ups on veterans' tax codes, and the application of levies, such as the ACC earners' levy, highlight the need for a closer relationship with Inland Revenue. The Defence Force is currently working on an information-sharing and relationship agreement with Inland Revenue.

Health practitioners: The veteran rehabilitation strategy will look at finding better ways to share information with health practitioners, while managing veterans' concerns about confidentiality.

Recommendations

I recommend that:

- Veterans' Affairs reviews its information-sharing and relationship arrangements with the Defence Force and ACC, progresses information-sharing arrangements with IRD for the purposes of weekly compensation and broader tax issues, and explores ways to share information with health practitioners.

⁶⁸ As at 31 December 2017.

Rationalising statutory bodies

Feedback

The review received 39 submissions containing comments about the three boards provided for under the Act – the Veterans’ Advisory Board, Veterans’ Health Advisory Panel, and the Veterans’ Entitlements Appeal Board.⁶⁹ Most comments focused on the need for more efficiency, fair decision-making processes, and veteran and/or medical professional representation in decision-making. Responses also emphasised the need for the boards to be more transparent and communicate better.

Veterans’ Affairs and the boards themselves also raised concerns about the bodies’ structures and processes. The review team met the chairs and members of all three boards, at which they willingly and frankly discussed more effective arrangements. Those discussions, together with a review of some of their written advice, helped shape the recommendations in this section.

Veterans’ Advisory Board

The advisory board’s role is to provide advice on its own initiative to the Minister, including about policies on veterans’ entitlements.⁷⁰ The Law Commission saw its function as providing “a mechanism through which veterans can have a direct voice to the Minister”.⁷¹ Clearly, it is useful for the Minister to have access to advice directly from the veteran community, even though he or she will invariably seek further advice from officials on relevant policy and law before making decisions.

In practice, the trigger for its work is generally a ministerial request for advice on a specific entitlement situation. Examples of such requests included “family/whānau members covered by the Veterans’ Support Act 2014” (2016); “support for a spouse or partner under the veterans’ independence programme” (2016); and “the ability of estates to seek or continue a claim, review, or appeal, and the circumstances that should limit the rights of a spouse or partner of a deceased veteran to receive a surviving spouse or partner pension” (2017).⁷²

It meets two or three times a year, as required. It agrees that it would be helpful to have a defined work programme so it can operate on a less *ad hoc* basis. It can comprise up to seven members and one veteran (appointed as an *ex officio* member

⁶⁹ Each has terms of reference issued by the Minister, although the Act provides for the Minister to give terms of reference only in relation to the veterans’ advisory board (section 247(3)). Each is authorised by statute to regulate its own procedure (sections 247(4), 254(3), 240(3)).

⁷⁰ Section 247(1),(2).

⁷¹ Law Commission report (2010), paras 8.25, 8.27.

⁷² Recommendations to broaden eligibility for the survivor’s grant and weekly compensation were not requested by the Minister, and appear to have been provided on the “own motion” of the advisory board, as permitted by section 247(2).

by the Chief of Defence Force). The Minister is required to “endeavour to appoint members who are representative of the veteran community”.⁷³ Currently, it has six members, including the chair, who is a prominent leader and advocate in the veteran community. The RNZRSA’s National President is a member, as are several individuals with strong current or past links with the Defence Force.

It would be timely to review the breadth of experience on the advisory board to ensure there is a diverse membership representing a range of experiences. Skills and experience in public service policy and in contributing to governance and advisory bodies would also be useful. To ensure the advisory board is seen to be fully independent, it would be preferable to appoint members who are not current Defence Force members. A consumer member with current experience of the veterans’ support system would bring a valuable user perspective. I draw these suggestions to the attention of the Minister for Veterans.

There is also a need for greater transparency about its work. Veterans indicated during consultation that they were in the dark about what it did. If it is intended to represent the veteran community, its work needs to be visible to, and readily accessible by, veterans. It should publish its work programme on the Veterans’ Affairs website and (at an appropriate time in the policy and decision-making process) its advice to the Minister for Veterans.

People should not have to resort to the Official Information Act 1982 to obtain copies of advice provided to the Minister. However, requests made for board advice held by the Minister should be handled in accordance with the principle of availability of information under that Act.⁷⁴ The blanket “free and frank” advice exception is unlikely to provide a legal justification for withholding advice, based on previous Ombudsman opinions about the scope of this exception. There may be a legal basis for withholding board advice still under consideration by the Minister on the basis that it “will soon be publicly available”, although this should not be used as a stalling technique.⁷⁵

Another possibility I have considered is that the advisory board be merged with the Veterans’ Health Advisory Panel. I discuss this next.

⁷³ Section 248(1),(5).

⁷⁴ Section 5.

⁷⁵ Section 18(d).

Veterans' Health Advisory Panel

The advisory panel's role is to provide advice and guidelines to the Minister on veterans' health matters.⁷⁶ Those matters include:

- advice on whether New Zealand should adopt or revoke statements of principles issued or revoked by the Australian Repatriation Medical Authority under the Australian Veterans' Entitlements Act 1986
- advice on the relationship between qualifying operational service and impairment for assessing eligibility to entitlements
- monitoring veterans' health
- determining claims by Veterans' Affairs and medical assessors
- advice on grants from the Veterans' Medical Research Trust Fund.

The Law Commission recommended such a statutory expert medical panel, which it envisaged would "provide a facility for translating international medical and scientific research into useable advice and guidelines for decision-makers".⁷⁷ The panel was also to give the Minister guidance about the monitoring of veterans' health and provide information to medical practitioners about the treatment of veterans.⁷⁸ Finally, the panel was to advise on grants from the War Pensions Medical Research Trust.

These functions are reflected in its statutory role and terms of reference, issued by the Minister. The Act does not specify skills required of members. It simply says there must be no more than 10 members, including a medical practitioner nominated by Veterans' Affairs, a medical practitioner nominated by the Chief of the Defence Force, and a member of the advisory board. Three of the panel members are designated as ex officio members. The terms of reference say membership should include, but not be limited to: health expertise and knowledge; health research experience and expertise; knowledge of veteran issues; and military background.

Currently, it has 10 members, including an experienced chair with health sector management expertise, five medical practitioners (including an epidemiologist and three with military medical experience) and two health researchers. It meets two or three times a year, as required. It has not had the time, available data or resources to monitor veterans' health, and has not been asked to advise on the relationship between qualifying operational service and impairment for assessing eligibility to entitlements, nor to advise on the assessment and determination of claims by Veterans' Affairs and medical assessors. In practice, the bulk of its time is spent on two of its statutory functions: advising whether New Zealand should adopt or revoke statements of principles, and making recommendations on applications for research grants from the Veterans' Medical Research Trust Fund. Each is considered in turn.

⁷⁶ Section 254(1),(2).

⁷⁷ Law Commission report (2010), paras 8.5, 8.8.

⁷⁸ Law Commission report (2010), paras 8.13, 8.14.

Statements of principles

The Veterans' Health Advisory Panel's evaluation process decides whether any statements of principles need modification to suit New Zealand circumstances. The panel relies heavily on the Defence Force's Chief Medical Officer, who sits as an ex officio member and undertakes a detailed analysis of each new Australian statement of principle.

The statements specify the service factors linked to particular conditions and underpin decisions about entitlements. The Australian Repatriation Medical Authority's approval process is comprehensive and based on a much larger population of veterans than New Zealand's. It relies on extensive research into medical-scientific evidence and epidemiological expertise. It is difficult for a part-time advisory panel to add any appreciable value to the authority's findings.

New Zealand has, in fact, adopted every one of the 1,062 statements in force. About two-thirds were adopted on the day the Act came into effect. About a third are entirely new. The rest amend or replace existing statements.

After considering each statement, the advisory panel gives its advice to the Minister. Following Cabinet approval, the statements of principles are adopted by a regulation amending the Veterans' Support Regulations 2014. It is a cumbersome, time-consuming and excessive process, given the scientific nature of the subject matter. It has continued because of concerns about the constitutional implications of automatically adopting Australian statements of principles (which are legislative instruments) as New Zealand statements of principles. A joint trans-Tasman arrangement may allay any constitutional concerns. Automatic adoption would require a bilateral instrument, agreed to by Australia's Department of Veterans' Affairs (which has indicated approval in principle) and Veterans' Affairs.

In my view, Veterans' Affairs should reach an agreement with Australia's Department of Veterans' Affairs so New Zealand can adopt each new Australian statement in full by a proposed process whereby the Head of Veterans' Affairs (General Manager), or her or his delegate, authorises adoption of a statement as soon as Veterans' Affairs becomes aware of its introduction or amendment in Australia, and undertakes to review the statement if, and when, necessary.

I also consider that, with the agreement of the Australian Repatriation Medical Authority, a Veterans' Affairs-nominated medical practitioner should attend its meetings. These are held six times a year. Such participation would help ensure New Zealand keeps abreast of, and potentially contributes to, the authority's review and adoption of statements.

If these two changes occur, one of the panel's two main current roles would cease.

Recommendations

I recommend that:

- Veterans' Affairs reaches an agreement with Australia's Department of Veterans' Affairs so New Zealand can adopt each new Australian statement

of principle in full as soon as it becomes aware that the statement has been introduced or amended in Australia.

- Veterans' Affairs seeks agreement from the Australian Repatriation Medical Authority for a nominated medical practitioner to attend its meetings to help ensure New Zealand can keep up to date with, and contribute to, the authority's review and adoption of statements of principles.

Veterans' Medical Research Trust Fund

The panel's second main role is to make recommendations on applications for research grants from the Veterans' Medical Research Trust Fund. It considers applications once a year and receives scarcely half a dozen each time. This raises the question whether a more efficient mechanism should be put in place to approve grants.

In my view, the grant process should come under the umbrella of the Health Research Council, which has well-established expertise in health research (and a well-established grants process). It is the lead agency funding and evaluating public health and medical research in New Zealand. If the Veterans' Medical Research Trust Fund grant process were handed over to a subcommittee of the Health Research Council, it would be essential the subcommittee had members with expertise in veterans' health and health research. This would require legislative changes and a funding transfer, along with a specific focus on veterans' health.

I note that under the current Trust deed, the final approval of recommended grants would remain a function of the Trustees (currently the Head of Veterans' Affairs and the President of the RNZRSA).

Recommendations

I recommend that:

- The Veterans' Medical Research Trust Fund grant process is transferred from the Veterans' Health Advisory Panel to the Health Research Council, subject to agreement with the council and arrangements to ensure members of the relevant subcommittee have expertise in veterans' health and health research.

New advisory board

Adoption and implementation of the above recommendations would transfer most of the advisory panel's work elsewhere, making it sensible to merge its functions with those of the Veterans' Advisory Board.

A new advisory board would provide advice to the Minister for Veterans on veterans' and family health and support issues, including the impact of veterans' service on health, and monitoring veterans' health. It would also provide advice on specific matters referred to the board by the Minister for Veterans.

The new board should be required to develop a work programme with the Minister for Veterans. If the board wants to initiate advice to the Minister, it should seek

confirmation that the proposed advice is appropriate and agreed to as part of its work programme.

The work and advice of the new board should be transparent. Key work, reports and decisions should be available on the Veterans' Affairs website, and there should be updates in *Veterans' Affairs News*.

In addition, the designation of some members as ex officio should be dropped. This would circumvent the oddity in the current statute that does not permit ex officio members of the advisory panel to vote, but does not bar the ex officio member of the advisory board from voting on board matters.⁷⁹ Removal of the designation of some members as ex officio would also render obsolete the current bar on ex officio members of the advisory panel being remunerated and reimbursed for actual and reasonable expenses, as long as they are not employees of the Defence Force or Veterans' Affairs.⁸⁰

Recommendations

I recommend that:

- The functions of the Veterans' Advisory Board and the Veterans' Health Advisory Panel are merged into a single new advisory board.

Veterans' Entitlements Appeal Board

The appeal board's role is to decide appeals about decisions on entitlements under the Act.⁸¹ It operates independently of Veterans' Affairs, although section 244 requires Veterans' Affairs to "provide the resources and administrative support necessary to enable the appeal board to efficiently and effectively perform its functions".

Its hearings are held away from Veterans' Affairs offices to send a clear message to claimants that it is an independent tribunal. Case management conferences are held by teleconference in accordance with the Veterans' Support Regulations 2014, to "secure the just, speedy, and inexpensive determination of an appeal".⁸²

The appeal board has four members, including a chair who is a lawyer and two medical practitioners. At least three members must sit at each hearing. In my view, a lay member would be a useful addition. Lay members with suitable skills and experience are increasingly appointed to administrative tribunals and bring a

⁷⁹ Section 255(2).

⁸⁰ Section 259.

⁸¹ Section 240(1),(2). Appeals about the veteran's pension are the responsibility of the Social Security Appeal Authority.

⁸² Veterans' Support Regulations, reg 50(2).

valuable perspective to appeals. I recommend that consideration should be given to appointing a lay member of the board who is not a legal or medical practitioner.

The appeal process needs to be faster. The average time from lodging an appeal to a decision is seven and a half months. One advocate reported that a veteran in his late 80s and in ill health had been waiting more than a year. Yet there fewer appeals today. Under the War Pensions Act 1954, the backlog grew to 300 appeals. As at 5 March 2018, the appeal board had seven appeals outstanding.

The current delays are unsatisfactory and not in the interests of justice. Clearly the appeal process needs to be speedier and more responsive. This requires dedicated secretariat support and regular appeal board meetings to be set at the beginning of the year.

People reported that the appeal process was arduous, stressful and complex, despite the efforts of the appeal board to operate in a relatively informal manner. Advocacy support for those bringing appeals also needs improvement. Currently, people usually rely on overworked RSA support advisors to act as their advocates. This matter has been discussed earlier in this report.

It would also be helpful if Veterans' Affairs prepared information, such as a brochure, video or other medium, on the appeals process to help make the process less daunting to veterans and their families. The appeal board should review this information before its publication.

Decisions of the appeal board must be – and are – published on the Veterans' Affairs website, subject to any prohibition or restriction on publication.⁸³ To ensure decisions reach a wide audience, I suggest that appeal board decisions are summarised and promptly published in *Veterans' Affairs News*, which is closely read by veterans. This would, of course, be subject to any non-publication order or other restriction imposed by the appeal board.

Veterans' Affairs also needs to continue to review its operational policies, and previous decisions, in light of any new appeal decisions – and to publicise any resulting changes in its policies.

Recommendations

I recommend that:

- Hearings of the Veterans' Entitlements Appeal Board are not delayed, appellants can access educational resources and advocacy support, and appeal decisions are well publicised.

⁸³ Section 238(2).

Rethinking eligibility

Introduction

The review brought to light widespread dissatisfaction within the veteran community about the design of the Act. Two key areas of concern were who qualifies for support under the Act and the influence of New Zealand's accident compensation framework on Scheme Two. These are fundamental aspects of the Act and beyond the scope of this review. Nonetheless, they are matters that merit reconsideration by the Government. To this end, I have detailed the concerns raised during the consultation process and also suggested options to extend who qualifies for support, and the nature of that support.

Eligibility

One of the recurring issues raised during consultation was the way the Act defines eligibility for qualifying as a veteran. Under Scheme One, routine service suffices. Under Scheme Two, qualifying operational service is necessary. Respondents said this was a fundamental inequity. All personnel, regardless of whether they had routine or qualifying service, should be considered veterans, they said. Consultation meetings reiterated this view.

Many respondents also commented on the inequity of the two schemes' coverage. Scheme One veterans were generally seen as better off. People wanted a single scheme covering all veterans. The RNZRSA noted in its submission: "The creation of two schemes with different entitlements and services is in itself inequitable." It said, for example, that Scheme One compensated families of veterans severely injured or killed, whereas most Scheme Two family entitlements applied only in the event of a veteran's death.

Some respondents pointed to the approach of countries that recognise all those who had served as veterans, but offer different levels of support to veterans according to the type of service they had given.

A frequent comment was that everyone suffered adverse effects from service. Often it was cumulative over the course of an individual's career. One veteran, an infantryman, described what he said would now be considered "unwise" practices such as "running about with full kit, jumping off trucks fully laden, walking miles in bush and jungle carrying weights" and their eventual impact: "Many ex-soldiers have crook knees, ankles, hips, backs and shoulders, but because there is no medical record, many are on the same footing as civilians waiting for operations or replacements."

Most respondents disagreed with the Act's definition of a veteran, and many thought that all those who had served with the Defence Force should qualify – or at least those who had been on operations. Some supported extending eligibility to police officers, first responders and local interpreters who had been attached to overseas

Defence Force units. Others suggested extending eligibility to those who had served for a specific period (such as five years), had received medals or been placed in harm's way (including to environmental, psychological or other risks).

Eligibility is currently determined by type of service, which in turn is determined by an assessment of the level of risk. Length of service is not taken into account. Some people with very short service qualify as a veteran, while others with 20 or 30 years' service do not.

A range of eligibility options is described below. For each option, three possible approaches are suggested, from the most narrowly targeted to the most broadly targeted. The options are not mutually exclusive. Eligibility could, for example, be based on a combination of type of service and length of service.

Eligibility based on a service-related event

Qualifies due to death or a serious injury or condition caused by, or occurring during, service

Qualifies due to a crisis or significant vulnerability caused by, or occurring during, service

Qualifies due to an acknowledged or recorded injury or condition caused by, or occurring during, service

Eligibility based on level of risk

Qualifies due to being placed in an environment with a high risk of injury or death

Qualifies due to being placed in an environment with a moderate risk of injury or death

Qualifies due to being placed in an environment with a low risk of injury or death

Eligibility based on type of service

Qualifies due to being on one or more deployments determined to be qualifying operational service

Qualifies due to being on one or more operational deployments

Qualifies due to service in the armed forces (beginning after basic training)

Eligibility based on length of service

Qualifies due to long service (15 years, equivalent to requirements for the Long Service Medal)

Qualifies due to significant service (for example, five, 10 or 12 years of service)

Qualifies due to having any period of service

Implementation

The options for extending eligibility could be put into effect in various ways. The following suggestions are arranged from least to most integrated into current arrangements.

Covenant: An agreement with private companies, community organisations and other agencies would offer services and support, possibly at a discount, to current and former Defence Force service people. This would be an adaptation of the United Kingdom's approach.

Extended insurance: Defence Force health and disability/income protection insurance would be extended to former serving staff. Currently, former staff can continue their policies, but at their own cost. The Defence Force could either subsidise or fully fund the insurance.

Transition package: Service people leaving the Defence Force would receive limited support for possible service-related issues, such as doctors' visits, diagnostic tests, some specialist assessments, career advice and/or a one-off payment. It could be for a fixed period, such as two years.

NGO package: Organisations that support former service people, such as RNZRSA and No Duff, would receive funding to provide or co-ordinate a package of care for individuals.

Linkage package: Veterans' Affairs would connect former service people with mainstream services and support. (It would not provide extra support.)

Recognition package: A separate recognition-of-service package for those not eligible under the Act could include information and case management support, an annual medical check and diagnostic tests, and possibly some funeral expenses.

Partial coverage – limited package: This would offer information, case management support and a limited package of support through Veterans' Affairs. This package could either contain specified entitlements (such as comprehensive medical assessment(s), diagnostic tests, counselling sessions, support through the veterans' independence programme and help with funeral expenses) or flexible support, with a financial cap.

Partial coverage – health and rehabilitation: This would offer information, case management support and a partial entitlement to support through Veterans' Affairs (perhaps healthcare and related rehabilitation/independence support for approved service-related conditions). It could focus on supporting people who are ineligible for ACC and exclude all financial entitlements.

Full coverage: All those deemed eligible, however that is defined, would receive all entitlements and supports under the Act.

Many people will undoubtedly be unhappy with anything less than full parity between Scheme One and Scheme Two veterans. In other words, they want to redefine veterans as anyone with routine or qualifying operational service. But there were people, as well as organisations, prepared to acknowledge that other options might need to be considered. One option would be tiered eligibility – a basic recognition package for everyone who has served, with progressively higher levels of support for those with operational service.

Based on the views expressed during consultation, international comparisons, and the likely feasibility of most of the options identified above, I consider some changes may be warranted. I have not made direct recommendations, but make the following observations about possible priorities:

- The families of those who die due to, and during, their military service should be automatically eligible for support under the Act. It should not matter whether the individuals were engaged in overseas or domestic operations at the time.
- There should be support for all former service people who are in crisis or very vulnerable. This could be through case management support and an emergency support package to help stabilise their situation. Either Veterans' Affairs, the Defence Force or sector organisations could provide this support.
- If support is extended beyond existing levels, it could target former service people with specific service-related illnesses and injuries. Those, for example, with mental health or musculoskeletal conditions could receive priority. Any extra support should also focus on treatment, rehabilitation and support for independence, which is in line with the emphasis of the Act.

The issues of eligibility and who qualifies as a veteran need further consideration, discussion and resolution. There is no denying the sector feels short-changed by the current arrangements. On grounds of equity, their views are justified. It may be that, after reconsideration of these issues, the current arrangements continue, albeit with some partial or targeted opening of eligibility. Or there may be far-reaching changes. Whatever the outcome, the whole area needs to be opened up for debate.

I suggest the Government undertakes an examination of who is a veteran and how New Zealand wants to recognise the service of veterans. There needs to be continuing consultation with the sector on this matter, and policy decisions by the Government.

Recommendations

I recommend that:

- The Government undertakes further work on who is a veteran and how New Zealand wants to recognise their service.

Qualifying operational service

As noted already, decisions about what is considered qualifying operational service have a direct impact on who is eligible for support under the Act. If the Minister for Veterans considers that a deployment poses a significant risk of harm to those deployed, he or she must declare the deployment “qualifying operational service” under section 9 of the Act. The declaration includes the geographical area and the period that will be covered. The Act does not define “significant risk of harm”. In practice, a deployment is considered for coverage under the Act if it is assessed as meeting the Defence Force’s strategic threat level of medium or higher.

The risk assessment includes environmental and operational threats. An “environmental threat” means a threat posed by one or more of the following:

- water and food quality or availability, or sanitation conditions
- epidemics and other diseases, including diseases that are endemic
- insect, plant and animal hazards
- roads and associated traffic hazards
- any other matter that the Minister considers poses an environmental threat.

An “operational threat” means a threat posed by one or more of the following:

- the activity of individuals, stakeholders and factions, security forces, and other groups, including those conducting military and political activity
- the local conditions and hazards, including violence connected with crime, civil disturbance, rioting and protest action
- the risk associated with mines, unexploded ordnance and booby traps
- the risk associated with chemical, biological, radiological and nuclear exposure
- acts of terrorism, whether or not directed at members of the Defence Force
- any other matter that the Minister considers poses an operational threat.

The inclusion of “any other matter” affords a high level of ministerial discretion. This is appropriate, in my view, because it allows for changing risks over time and in different situations.

I consulted on whether the threshold of “significant risk of harm” is too high, and whether the existing threat categories adequately take account of all the impacts on individuals. Overwhelmingly, respondents considered the threshold too high. (Eighty out of 97 respondents to the discussion document held this view, as did participants at many consultation meetings.) They considered all military activities, international or domestic, to carry an inherent risk of harm, and that deployed personnel had little choice about their work environment. Some people pointed out that it was often not so much the circumstance or location of a deployment that mattered as the effect on individual veterans and the injuries they were exposed to.

People felt that psychological stress or harm and moral injury were not well represented in the environmental and operational threats. They cited the impact of being unable to intervene when local citizens were being attacked, the psychological

(but not physical) impact of some aspects of modern warfare (such as piloting drones), and the effect of experiencing the death or injury of others (including mortuary services).

People also considered that other risks should be included, such as the impact of difficult and confined living conditions, the effect of being in a constant state of operational readiness, extended periods away from home and family, climatic conditions and hazards, difficult terrain, poor air quality, and exposure to harm from equipment, chemicals and fuel.

Submitters reported an inadequate understanding and assessment of the environmental and operational conditions faced by personnel. They also had concerns about record-keeping, mainly because many hazards have historically not been recognised and accepted until decades after exposure. Some felt Veterans' Affairs had no appreciation of the environments people had worked in, particularly the noise and toxins they had been exposed to.

Others commented that the risk assessment was dominated by land-based threats and did not sufficiently acknowledge sea and air-based threats.

I heard from many former service people who, despite many years of service and numerous deployments, still had no qualifying operational service. Many of these individuals were, or still are, attached to the Navy.

Respondents suggested various deployments and activities they believed involved a risk of harm and should qualify, including routine service, domestic training and operations, domestic and international humanitarian and disaster relief, and a range of current and historical overseas deployments. It is a long list. People raised concerns about inconsistencies between what had and had not been covered historically. This has resulted in a feeling that, even within the current eligibility rules, some veterans are missing out because of unrecognised operational service.

Thresholds and criteria

Overall, the list of qualifying operational service has grown in an *ad hoc* way, and there is little confidence, including within Veterans' Affairs, that the list is complete, or that all deployments have been treated equitably.

The current thresholds and criteria for qualifying operational service are central to the issue of who is considered a veteran, and they should be considered as part of my suggestion about further work on defining who is a veteran. On the basis of the extensive feedback and consideration on this issue during consultation, I offer the following suggestions:

- The future focus should be more broadly on adverse experiences and effects due to service, and could result, for example, in inclusion of psychological and other individual risk factors and impacts (which would encompass moral injury).
- The list of environmental and operational threats, if retained, needs continuous review and updating as necessary. An example may be the

inclusion of climatic conditions (such as extreme cold or heat), noise exposure and air quality.

I am pleased that Veterans' Affairs has begun examining whether some historical deployments should now be declared as qualifying operational service. The review is likely to take at least until 2019. It will, hopefully, ensure the list of qualifying operational service is brought up to date.

ACC

There were very strong views about the ACC scheme's influence on the Act and the way it underpinned arrangements for Scheme Two. In particular, respondents considered that former service people should not have to deal with ACC. Many felt that ACC should be removed from the process entirely. Others considered Veterans' Affairs should take the lead and resolve any difficulties with ACC directly. Some considered Veterans' Affairs was shifting its responsibilities to ACC.

I note there is nothing in the Act that forces veterans to claim from ACC. They can choose not to approach ACC for service-related conditions covered by Veterans' Affairs. Instead, they can deal solely with Veterans' Affairs and obtain entitlements and support under the Act.

Veterans said there was too much bureaucracy and confusion over responsibilities for service-related injuries and illnesses, which should be the responsibility of Veterans' Affairs' alone. They objected to having to complete assessments at both agencies. They also had two case managers, but wanted only one – preferably at Veterans' Affairs.

Another objection was that ACC's philosophy, approach and processes did not align with the philosophy and principles in the Act, especially the principle of taking a benevolent approach to claims.

I have already discussed ACC-related issues and noted the resource implications of Veterans' Affairs taking the lead role for veterans eligible for support under both schemes. The influence of ACC arrangements on the design of the Act is a fundamental issue outside the scope of this review. It is integrally connected with the issue of eligibility and the design of the two schemes within the Act.

Future reviews

Submitters said the Act needed reviewing again in the future. Most indicated a preference for a review within five years. Regular reviews were seen as a way of responding to the changing nature of service and the increasing evidence base for service-related health conditions. One submitter said regular reviews were needed so the Act did not "become a dinosaur" like its predecessor.

Despite taking place fairly soon after the Act came into effect, this review has been valuable. It has given veterans and their families an opportunity to make their views known about how, practically speaking, the Act is working. It has given them a forum to raise questions about some fundamental aspects of the Act that they feel still need to be addressed.

I trust this review will act as a baseline for measuring progress in the future.

Recommendations

I recommend that:

- A further review of the Act, and its operation, takes place within five years of this report, or if statutory amendments are made in response to this report, the first review takes place within five years of the date when the changes come into effect.

“Good legislation requires not only focused and careful consideration at its genesis, but ongoing review.”

Law Commission⁸⁴

⁸⁴ Law Commission, *A New Support Scheme for Veterans: A Report on the Review of the War Pensions Act 1954* (2010), para 1.11.

Recommendations

More focus on the needs of veterans

1. The Act is amended so Veterans' Affairs has more flexibility to meet individual and family needs, including:
 - a) the ability to offer a range of treatments, rehabilitation approaches and supports
 - b) discretion to offer more or different services and culturally appropriate support.
2. Veterans' Affairs is given funding to establish a flexible fund so that it can develop and offer programmes, services and supports in addition to those provided through the Act.
3. The treatment and rehabilitation provisions of the Act are made consistent and flexible, to ensure that early intervention and an appropriate continuum of care can be delivered.
4. Flexible early intervention support is made available to veterans in emergency, acute or otherwise serious situations, before the presence of a service-related condition is confirmed.
5. Veterans' Affairs takes a holistic and integrated approach to meeting veterans' needs, including providing wrap-around support to the greatest extent possible.
6. Veterans' Affairs is enabled to provide integrated packages of care where a veteran has high and complex needs.
7. Veterans' Affairs is mandated and resourced to be the single point of contact for veteran-focused services and supports for those veterans with the highest and most complex needs.

Strengthen support for families

8. Veterans' Affairs consults family members about their needs and how they could best be met in preparation for service development and legislative changes.

- 9.** New family supports are funded, at least initially, through the flexible fund established outside the Act (see recommendation 2 above).
- 10.** The Act is changed to explicitly provide for consideration of families' needs and practical, flexible support for family members (either through a new addition to the Act or amendment of existing provisions).
- 11.** Families are included in, or offered separate, needs assessments and rehabilitation/support plans.
- 12.** Carer relief and other support for family carers is implemented as a matter of priority.
- 13.** Counselling is made available to veterans' family members for needs related in any way to the veteran's service, although limits may apply.

Surviving Spouse or Partner Pension

- 14.** Eligibility for the surviving spouse or partner pension is simplified by extending it either to all surviving spouses or partners of Scheme One veterans, or to all surviving spouses or partners of Scheme One veterans with qualifying operational service, and retaining existing eligibility criteria for veterans with routine service.
- 15.** The surviving spouse or partner pension is available to the surviving spouse or partner for the remainder of his or her life.

Children and dependants

- 16.** The definition of child in Part 1 of the Act is amended to better reflect the contemporary family unit in New Zealand, either by an expanded definition or by adding a sub-clause to the existing definition, to include any other dependent child who is being maintained, including financially, as part of a veteran's family.
- 17.** The children's bursary is extended to:
 - a) children of Scheme Two veterans
 - b) a broader range of unpaid study or training, such as vocational training
 - c) children of veterans living overseas.

18. Consideration is given to:

- a) extending the children's bursary to primary school children
- b) allowing postponing use of the bursary in order to take a short break from studying, or alternatively, to extending the bursary to people up to 25.

19. Childcare payments under Scheme Two are available until a child turns 14.

Entitlements on death

20. Eligibility for the funeral grant is aligned with simplified criteria for accessing the surviving spouse or partner pension (see recommendation 14 above).

21. The funeral grant for veterans is increased so it is at least equal to ACC's funeral grant for death from a covered injury, and that its value is maintained over time, including through CPI-adjusted increases.

22. The Act is amended to make it clear that periodic entitlements continue for 28 days after a recipient's death in those sections of the Act where there is currently no such provision.

23. Veterans' Affairs considers whether the Act should explicitly allow estates to progress to determination a claim or review lodged by a now deceased applicant.

Enhance independence support

24. The Act is amended so partners and spouses are eligible to access veteran's independence programme services after a veteran dies or goes into rest home or hospital care.

25. Veterans' Affairs:

- a) decides whether to extend services to a partner or spouse on the basis of their needs, taking into account tasks a veteran used to perform and did not claim for
- b) helps a partner or spouse, when necessary, to find alternative funders of these services.

- 26.** The purpose of the veterans independence programme is expanded so veterans can receive help to “live independently in their own home and participate in their community”.
- 27.** The definition of “home” in the Act is updated to allow for a wider range of living arrangements.
- 28.** Veterans’ Affairs consults veterans and their families about the range of services that would most help them maintain their independence and participation in the community, in order to determine the areas of greatest need.
- 29.** Veterans’ Affairs expands the range of support services to enable independent living, and ensures a flexible, individually tailored approach to providing these services.
- 30.** The travel allowance and travel concession are combined into a single grant covering travel for both errands and social activities.

A fairer, clearer Act

- 31.** Veterans’ Affairs writes a plain English guide to the Act for veterans.
- 32.** The Act is streamlined and simplified by:
 - a) combining common provisions
 - b) removing sections that don’t need to be in the legislation or regulations
 - c) making a number of clarificatory and technical amendments
 - d) providing more flexibility and discretion for Veterans’ Affairs, so it can meet the needs of current and future veterans and their families
 - e) allowing for current and future digital technologies.
- 33.** Section 205 of the Act is amended to make clear Veterans’ Affairs can at any time reconsider a decision about an application made under the Act if it has made an error or significant new information comes to light that is likely to materially affect the decision.
- 34.** Section 3(a) of the Act is amended to include families and to read: “the rehabilitation of and support for veterans and their families, where a veteran has been injured or become ill as a result of being placed in harm’s way in the service of New Zealand”.

- 35.** Veterans' Affairs reminds staff of the spirit of the Code of Veterans' and Other Claimants' Rights.
- 36.** A new statutory principle recognising a moral duty of care to veterans is included in the Act.
- 37.** Section 28(2) of the Act is amended by adding a further exception, (c), to cover situations where Veterans' Affairs is satisfied on reasonable grounds that it would be unjust to exclude cover solely because the claimant was briefly absent without leave or committing a minor offence.
- 38.** Section 28(2)(b) of the Act is amended to read: "the illness, injury or death was due to or is a psychological condition that was attributed to or aggravated by the experiences of the veteran during qualifying operational service".
- 39.** Section 29 of the Act is revised to clarify that dependants of a veteran are not, by virtue only of the veteran's imprisonment, to be denied any entitlements for which they would otherwise qualify.

Improving the system

Structure and people

- 40.** The Government considers either ring-fencing Veterans' Affairs' budget or establishing a separate funding vote for Veterans' Affairs.
- 41.** The Defence Force gives greater priority to veterans' issues and providing adequate support infrastructure for Veterans' Affairs.
- 42.** Veterans' Affairs is resourced so that it has the operational capability and capacity to carry out the job it was set up to do.
- 43.** Veterans' Affairs continues to build skills related to veterans' needs, including:
- a) investigating inclusion of a question about military service on general practice registration databases
 - b) general practitioner and specialist training
 - c) training for its own staff
 - d) more Māori/cultural support.

Processes, policies and information

- 44.** Veterans' Affairs and the Defence Force work to establish a register of all veterans, their service, their deployments, environmental and other risks they may have been exposed to, and any service-related conditions.
- 45.** Veterans are identified and offered effective transition support when leaving the Defence Force for civilian life.
- 46.** Veterans' Affairs improves its outreach communication and public information about veterans' support, for veterans and the community, including the development of:
 - a) information (such as a brochure and/or video) on the appeals process
 - b) easily accessible information for veterans living, or considering living, overseas.
- 47.** Veterans' Affairs explores the use of modern technologies, including online applications, setting up a "My Account", and using mobile phones and social media to communicate with veterans.
- 48.** Veterans' Affairs investigates advocacy models and the infrastructure needed to build a professional, well-trained advocacy workforce.
- 49.** The 30-working-day limit for decisions is removed from the Act, and Veterans' Affairs is required to make decisions as quickly as reasonably practicable, and to keep veterans informed about progress with decisions.
- 50.** Veterans' Affairs is resourced to complete implementation of its information technology system.
- 51.** Veterans' Affairs reviews its policies, processes and practices, to ensure that they align with a generous application of the principles under the Act, consistent with the flexibility and discretion permitted by the Act.
- 52.** Veterans' Affairs reviews its operational policy covering overseas travel.
- 53.** Section 59(2), which requires veterans living overseas to pay the costs of assessing their ability to work full-time, is removed from the Act.

- 54.** Veterans' Affairs reviews its information-sharing and relationship arrangements with the Defence Force and ACC, progresses information-sharing arrangements with IRD for the purposes of weekly compensation and broader tax issues, and explores ways to share information with health practitioners.

Rationalising statutory bodies

- 55.** Veterans' Affairs reaches an agreement with Australia's Department of Veterans' Affairs so New Zealand can adopt each new Australian statement of principle in full as soon as it becomes aware that the statement has been introduced or amended in Australia.
- 56.** Veterans' Affairs seeks agreement from the Australian Repatriation Medical Authority for a nominated medical practitioner to attend its meetings to help ensure New Zealand can keep up to date with, and contribute to, the authority's review and adoption of statements of principles.
- 57.** The Veterans' Medical Research Trust Fund grant process is transferred from the Veterans' Health Advisory Panel to the Health Research Council, subject to agreement with the council and arrangements to ensure members of the relevant subcommittee have expertise in veterans' health and health research.
- 58.** The functions of the Veterans' Advisory Board and the Veterans' Health Advisory Panel are merged into a single new advisory board.
- 59.** Hearings of the Veterans' Entitlements Appeal Board are not delayed, appellants can access educational resources and advocacy support, and appeal decisions are well publicised.

Review the level of support

- 60.** Veterans' Affairs reviews entitlements, services and supports under the Act to ensure they offer an extra margin of support compared with those provided by ACC or other agencies.

61. Veterans' Affairs reviews the adequacy of financial support for veterans and their families and that this work consider whether:

- a) all serving and former serving personnel should be eligible for a veteran's pension in recognition of their service to New Zealand
- b) the veteran's pension should be higher than New Zealand Superannuation payments
- c) the eligibility age for the veteran's pension should be lower than 65
- d) the impairment threshold for a spouse or partner's eligibility for a veteran's pension should be removed
- e) there is enough support for spouses and partners who are under 65 at the time of a veteran's death and unable to work because of ill health or disability.

62. Veterans' Affairs and the Ministry of Social Development work to improve the application process for the veteran's pension so qualifying veterans can make an informed choice about whether to receive New Zealand Superannuation or the veteran's pension.

Rethinking eligibility

63. The Government undertakes further work on who is a veteran and how New Zealand wants to recognise their service.

Future reviews

64. A further review of the Act, and its operation, takes place within five years of this report, or if statutory amendments are made in response to this report, the first review takes place within five years of the date when the changes come into effect.

Appendix A: Terms of reference for the review of the operation of the Veterans' Support Act 2014

June 2017

Introduction

The Chief of Defence Force has commissioned a review of the operation of the Veterans' Support Act 2014 (the Act) commencing in June 2017.

This review is mandated under section 282 of the Act. This section requires that the Chief of Defence Force initiate a review of the operation of the Act, as soon as practicable, after the second anniversary of the commencement of Scheme One of the Act (this was on 1 December 2014). Section 282 also directs the Minister of Veterans' Affairs to report to the House of Representatives on the outcome of this review.

The objectives and approach for the review are set out in these terms of reference.

Background

The Veterans' Support Act was enacted in 2014 to establish a new support scheme for veterans who are ill or injured as a result of military service. It replaced the existing scheme contained in the War Pensions Act 1954. The new legislation was drafted following a comprehensive review of the previous War Pensions Act 1954 undertaken by the Law Commission.

The Law Commission review found that the War Pensions Act had become outdated and failed to meet the needs of a contemporary veteran community. This community is increasingly characterised by very different demographics and service histories than had been envisaged by the previous Act.

The Veterans' Support Act reflects that shift (yet to be fully realised) in the nature and needs of contemporary veterans. It reflects current knowledge that the risks faced by deployed forces are not only physical, but also psychological and environmental. In addition, it takes into account modern disability management principles by placing an emphasis on treatment and rehabilitation. Furthermore, it provides for greater alignment with the Accident Compensation Scheme.

Objective of review

The purpose of the review is to:

- a) review the operation of the Act;
- b) consider, in light of this, whether any amendments to the Act are necessary or desirable; and

- c) report the findings of the review to the Minister of Veterans' Affairs.

It is anticipated the review will, where needed, consider how the Act has been operationalised through regulations, policies, and procedures intended to give effect to the Act.

More specifically this review will consider:

- issues which have been raised by veterans and stakeholders as the Act has been implemented and on which the Minister has sought advice from the Veterans' Advisory Board. These include:
 - which family/whānau members of veterans are covered by the Act;
 - the support for spouses and partners under the Veterans' Independence Programme; and
 - the ability of deceased veterans' estates to access entitlements;
- any technical barriers to the application of the Act that Veterans' Affairs New Zealand (Veterans' Affairs) has experienced since its commencement, including amendments and clarifications to wording and changes to ensure consistency of terminology; and
- any issues raised in the course of the review which the Reviewer considers may be needed to ensure that the Act and its operation remain fit for purpose as the veteran population and the nature of their experiences change.

Deliverable

The key deliverable is a report, by 15 December 2017, to the Chief of Defence Force presenting the Reviewer's findings and recommendations on what, if any, legislative changes are needed.

A preliminary consultation paper may be prepared to set out the issues identified and examined as part of the review, and propose options for addressing them. The paper would be provided to stakeholders for their consultation and comment.

A draft version of the report will be discussed with the Head of Veterans' Affairs and the Vice Chief of Defence Force before the report is finalised.

The Minister will present the final report to the House of Representatives.

Scope

In scope are:

- recommendations for technical change to:
 - amend wording in the Act so that it is consistent throughout;
 - ensure similar situations are treated consistently;
 - fix errors and omissions;
 - re-order sections for consistency across sections of the Act; and
 - remove any redundancies;

- recommendations to clarify the intent of particular aspects of the Act where the wording has been interpreted as inconsistent with the purposes of the Act, or where intent is unclear; and
- recommendations to ensure sufficient flexibility for Veterans' Affairs to provide fair and reasonable entitlements, as determined by the Government of the day, for eligible veterans and their families where a veteran has been injured or become ill as a consequence of eligible service.

The following areas are out of scope for the review:

- recommendations that significantly change the purpose and coverage of the Act;
- recommendations that were considered but rejected by the Law Commission review or Parliament during its consideration of the bill and where no further research or evidence is available;
- recommendations on issues which are already covered by any other review, including the policy governing repatriation of remains of service personnel and dependants;
- matters that are linked to but not provided for by the Act, for example, section 15 of the Burial and Cremations Act 1964; and
- operational activities unrelated to the Act, Veterans' Affairs, or the New Zealand Defence Force.

Governance

The final report is a report for the Minister of Veterans' Affairs.

This review will be independent of Veterans' Affairs, but will report to the Vice Chief of Defence Force, on delegation from the Chief of Defence Force, under section 200(2) of the Act.

It is expected that the Reviewer will meet with the Vice Chief of Defence Force during each key stage of the review.

Support for review

Veterans' Affairs will provide secretariat and advisory support for the review.

Veterans' Affairs will provide the Reviewer with all the work undertaken to identify issues with the current operation of the Act. Veterans' Affairs will also be available to provide any other support reasonably required by the Reviewer, so long as the support does not affect the independence of the Reviewer.

The Veterans' Advisory Board may also be a valuable resource for the review, should the Minister of Veterans' Affairs ask the Board to be available.

Methodology

The review will be undertaken by an independent Reviewer contracted by the Vice Chief of Defence Force.

The review will be run in an open and transparent manner and will actively seek input from stakeholders throughout the process. Stakeholders identified include:

- veterans (including currently serving members of the New Zealand Defence Force) and their families;
- Veterans' Advisory Boards and Panels appointed by the Minister;
- Royal New Zealand Returned and Services' Association; New Zealand Korea Veterans' Association; New Zealand Malayan Veterans' Association; Viet Nam Veterans' Association; and No Duff NZ;
- New Zealand Defence Force;
- Veterans' Affairs; and
- Ministries of Health and Social Development; Department of Internal Affairs; the Accident Compensation Corporation; and Ministry of Business, Innovation and Employment (ACC Policy).

The Reviewer will be expected to engage with agreed stakeholders, including meeting with and calling for submissions from stakeholders. The Reviewer is also expected to seek assistance and advice from other experts, where necessary and appropriate.

Appendix B: Schemes One and Two

This section summarises the entitlements available to veterans and their families under Scheme One and Scheme Two of the Act, as well as entitlements common to both schemes.⁸⁵

Scheme One

Assistance provided	Description
Impairment compensation	
Disablement Pension An ongoing payment for service-related impairment.	A veteran who has an impairment as a result of a service-related illness or injury is eligible for the Disablement Pension. The pension is exempt from income tax and is not included in eligibility tests for other forms of social assistance provided by the New Zealand Government.
War Disablement Pension A transitional arrangement for ongoing payment for service-related disablement.	A grandparented entitlement that continues for those who received it under the War Pensions Act 1954. The pension is exempt from income tax and is not included in eligibility tests for other forms of social assistance provided by the New Zealand Government.
Terminal Illness Lump Sum A lump sum payment of 12 months' worth of War Disablement Pension or Disablement Pension payments paid at the maximum rate.	A veteran must be eligible for a War Disablement Pension or a Disablement Pension and be diagnosed with a terminal medical condition that arises from a service-related illness or injury. The lump sum is equivalent to 12 months' worth of payments of the War Disablement Pension or Disablement Pension paid at the maximum rate. The lump sum payment is exempt from income tax.
Income compensation	
Weekly Income Compensation An ongoing payment paid at a rate equivalent to 80% of the average wage.	A veteran must be under the New Zealand Superannuation qualifying age, currently 65, be unable to work full-time, be participating in a rehabilitation plan where able, and not receiving any benefit paid under the Social Security Act 1964. The compensation payment is subject to income tax.

⁸⁵ There are some other smaller entitlements, support, and grants available under the Act that are not included in this table.

Assistance provided	Description
Family entitlements	
Surviving Spouse or Partner Pension An ongoing payment for the surviving spouse or partner of deceased veterans.	The veteran's death must be service-related or the veteran: • must have been receiving a permanent War Disablement Pension of 70% or more; or • a permanent Disablement Pension of 52% or more, or • could have been receiving either had the veteran not died. The pension is exempt from income tax and is not included in eligibility tests for other forms of social assistance provided by the New Zealand Government. The payment is paid for a lifetime unless the spouse or partner enters into a new relationship.
Children's Pension An ongoing payment for a child of a severely impaired or deceased veteran.	The veteran's death must be service-related or the veteran: • must have been receiving a permanent War Disablement Pension of 70% or more; or • a permanent Disablement Pension of 52% or more, or • could have been receiving either had the veteran not died. The pension is paid until the child turns 18, or 23 if the child continues in full-time study. The pension also continues if the child suffers from "physical or mental infirmity". The pension is exempt from being treated as income for the purposes of Student Allowance eligibility and other forms of social assistance provided by the New Zealand Government.

Assistance provided	Description
Dependant's Pension An ongoing payment for the dependant of a severely impaired or deceased veteran.	The veteran's death must be service-related or the veteran: • must have been receiving a permanent War Disablement Pension of 70% or more; or • a permanent Disablement Pension of 52% or more, or • could have been receiving either had the veteran not died. Three types of dependant are defined in section 7 of the Act, and the criteria for one of these types must be met. Criteria primarily relate to: • age • financial dependency • being in the care of the veteran • ordinarily residing with the veteran, or • physical or mental disability. The pension is subject to an economic test. The period for which is may be paid relies on the circumstances under which the dependant became eligible.
Children's Bursary An annual payment for children of a severely impaired or deceased veteran, who are attending secondary school or undertaking tertiary study.	A child must be receiving a Children's Pension or be the child of a veteran who is receiving Weekly Income Compensation or a Veteran's Pension. Different rates apply, depending on the type of study being undertaken and the type of veteran entitlement. The bursary is paid in the year during which the period of study was undertaken and is paid until the child stops studying or their 23rd birthday, whichever is the earliest.

Scheme Two

Assistance provided	Description
Impairment compensation	
Independence Allowance An ongoing payment for permanent impairment arising from qualifying operational service that occurred between 1 April 1974 and 31 March 2002.	A veteran is eligible for the Independence Allowance if he or she has qualifying operational service on or after 1 April 1974 and before 1 April 2002 and suffers permanent service-related impairment of 5% or more. The Independence Allowance can be paid as a 12-month lump sum payment. The allowance is exempt from income tax.
Permanent impairment lump sum A lump-sum payment for impairment arising from qualifying operational service that occurs on or after 1 April 2002.	A veteran is eligible for a lump-sum payment if he or she has qualifying operational service on or after 1 April 2002, suffers permanent service-related impairment of 5% or more, and survives their service-related impairment for a period of more than 28 days.
Income compensation	
Weekly Compensation An ongoing payment for a severely impaired veteran.	A veteran must have qualifying operational service after 1 April 1974, be under the New Zealand Superannuation qualifying age, currently 65, and be unable to work full-time due to a service-related condition. A veteran will be required to participate in a rehabilitation plan. Weekly Compensation is subject to income tax and is paid at the rate equivalent to 100% of the veteran's pre-injury or pre-illness earnings for the first year and then 85% for the second and any subsequent year of entitlement.
Family entitlements	
Weekly Compensation for Surviving Spouse or Partner An ongoing payment for the surviving spouse or partner of a deceased veteran.	The veteran must have qualifying operational service and have suffered a service-related death. The payment is paid at the rate of 60% of the weekly compensation the veteran would have received if they had not died. It is paid for: • a minimum of 5 years, or • where there are children, until the youngest child turns 18, or • where there are dependants, for the period for which a dependant of the deceased veteran continues to be cared for by the surviving spouse or partner. The payment may be made as a lump sum payment. The payment is subject to income tax.

Assistance provided	Description
Vocational Assistance Surviving Spouse or Partner The provision of vocational assistance to a spouse or partner of a severely impaired or deceased veteran.	The veteran must have qualifying operational service and: • a service-related condition resulting from that service that makes them unable to work or unable to undertake vocational rehabilitation; or • suffered a service-related death. An assessment will identify the spouse or partner's vocational assistance needs and types of work that may be appropriate for the spouse or partner. Certain rules apply to when and how long vocational support will be provided.
Children's Weekly Compensation An ongoing payment for a child of a deceased veteran.	The veteran must have qualifying operational service and have suffered a service-related death. The payment is paid at the rate of 20% of the weekly compensation the veteran would have received if they had not died. It is paid until the child turns 18 or, if they undertake full-time study, until they turn 23. If there is more than one child, the 20% is to be shared evenly between the children. The payment is subject to income tax.
Dependant's Weekly Compensation An ongoing payment for the dependant of a deceased veteran.	The veteran must have qualifying operational service and have suffered a service-related death. The payment is paid at the rate of 20% of the weekly compensation the veteran would have received if they had not died. It is paid until the dependant earns more than the minimum rate of weekly compensation or until they turn 65, whichever comes first. The payment is subject to income tax.
Survivor's Grant A one-time payment paid to the surviving spouse or partner of a deceased veteran, each child of a deceased veteran and any other dependant of the deceased veteran.	The veteran must have qualifying operational service and have suffered a service-related death. Where an entitlement from ACC is payable, Veterans' Affairs will pay any difference. Where there is more than one spouse or partner, the payment will be divided evenly. The payment is exempt from income tax.

Assistance provided	Description
Childcare payments Payment of a certain amount towards the care of dependent children of a deceased veteran.	The veteran must have qualifying operational service and have suffered a service-related death. The child must have been dependent on the veteran when they died. An exception is a child of the veteran born within 12 months of their death. Payment is for a maximum of 5 years or until a child turns 14 years of age, whichever comes first. Payment will be made to the caregiver or financially responsible person of each eligible child. Where an entitlement from ACC is payable, Veterans' Affairs will pay any difference. The payment is exempt from income tax.

Entitlements and services common to both schemes

Assistance provided	Description
Income support	
Veteran's Pension An ongoing payment equivalent to, and paid as an alternative to, New Zealand Superannuation.	A veteran must have reached the qualification age of New Zealand Superannuation, currently 65, and have qualifying operational service.
Income compensation	
Retirement Lump Sum A one-time lump sum payment payable on reaching the qualifying age for New Zealand Superannuation.	The veteran must be receiving Weekly Income Compensation or Weekly Compensation from Veterans' Affairs and have been receiving such income compensation for a period of 10 years or more on the date the veteran qualifies for New Zealand Superannuation. Payment is subject to an asset assessment and is treated as income for the purpose of applying for assistance under the Social Security Act 1964. Income compensation includes the Veteran's Pension under 65, War Veteran's Allowance, War Service Pension and the Economic Pension previously paid under the War Pensions Act.
Treatment	
Treatment Costs Reimbursement of, or contribution to, treatment costs associated with accepted service-related conditions. Includes necessary ancillary costs and associated travel costs.	A veteran must have an accepted service-related condition for which they are receiving approved treatment.

Assistance provided	Description
Rehabilitation	
Social Rehabilitation Assisting the rehabilitation of a veteran by providing services and support aimed at them regaining as much independence as possible.	The veteran must have a service-related injury or illness and require social rehabilitation. The veteran will be assigned a case manager who will work with the veteran on their rehabilitation plan.
Vocational Rehabilitation Assisting a veteran back to work. It can help a veteran find or maintain a job, or regain or achieve vocational independence.	The veteran must have a service-related injury or illness and Weekly Income Compensation or Weekly Compensation and require vocational rehabilitation. The veteran will be assigned a case manager who will work with the veteran on their rehabilitation plan.
Independence assistance (veteran)	
Veterans' Independence Programme Providing certain services and support for veterans who are unable to undertake activities necessary for them to remain independent in their home.	The provision of services and support is determined based on assessment of the individual veteran's need.
Independence assistance (surviving spouse or partner)	
Veterans' Independence Programme Providing services and support for the surviving spouse or partner of a deceased veteran.	The provision of services and support is determined based on assessment of what the veteran was receiving or would have been eligible for had they not died. Services and support may be provided for up to a year after the death of the veteran.

Assistance provided	Description
Funeral Costs	
Funeral expenses Payment or contribution to the cost of a veteran's funeral costs.	The veteran's death must be service-related; or, where the veteran's death was not service-related, the veteran must have been receiving: • Weekly Income Compensation or Weekly Compensation; or • a Veteran's Pension or New Zealand Superannuation, or • a supported living payment under the Social Security Act 1964. Where the veteran's death is not service-related, and the veteran leaves a spouse or partner, or a child or a dependant who is eligible for a Surviving Spouse or Partner Pension, a Children's Pension, a Dependant's Pension, or a Survivor's Grant. Further assistance for transporting the body may be provided in certain circumstances where the veteran's death is service-related.
Plaques and headstones Payment or contribution to the cost of a veteran's funeral.	A New Zealand veteran who is eligible for burial in a services cemetery is eligible for a plaque or headstone for themselves and their spouse or partner. Where an eligible veteran chooses to be buried in a public cemetery a contribution will be made towards the purchase of a memorial.
Financial advice	
Financial advice Payment towards financial advice	Where certain lump sum payments of \$NZ15,000 or more have been paid, a contribution of up to \$NZ1,500 will be paid towards professional financial advice.

Appendix C: Other agencies in the veterans' support system

Accident Compensation Corporation

The Accident Compensation Corporation (ACC) was established on 1 April 1974 to provide a universal no-fault accidental injury scheme covering injury prevention, rehabilitation and compensation.

The New Zealand Defence Force is part of the Accredited Employer Programme, which allows it to manage all work-related injuries of employees on behalf of ACC. Non-work accidents are administered by ACC.

ACC covers the treatment and rehabilitation costs of serving Defence Force personnel who are injured or impaired on deployments after 1 April 1974. This includes training exercises in New Zealand and deployments overseas.

Veterans who are injured or become ill during service are likely to apply for ACC assistance through the Defence Force's Accredited Employer Programme. Veterans with qualifying operational service on, or after, 1 April 1974 may be eligible for more support than ACC would provide. A veteran, for example, who is unable to work because of a service-related condition, is likely to receive more weekly compensation for loss of income under the Veterans' Support Act 2014 than he or she would receive from ACC. If a veteran is entitled to more support, Veterans' Affairs will pay the difference. Veterans' Affairs may also fund extra rehabilitation.

Ministry of Health and District Health Boards

New Zealand's health and disability system has largely shaped healthcare arrangements for veterans. Being universal, it treats civilians and veterans alike, and as a result New Zealand, unlike some comparable countries, has no separate healthcare system for veterans.

The Ministry of Health regulates and funds the health and disability system, which includes hospitals, primary care organisations, services and support for people with disabilities or mental health and addiction issues, and aged care services. It directly funds some programmes and services, such as support for people with long term disabilities.

District health boards provide free hospital care to veterans who are citizens or permanent residents and subsidise their primary care. Defence Health is the sole provider of primary care for veterans who are still serving in the Defence Force. Such individuals cannot enrol with their own general practitioner.

Veterans' Affairs funds primary care for veterans' service-related conditions. This includes the cost of pharmaceuticals. If conditions are not service-related, veterans must pay the usual co-payments, like other citizens. Veterans' Affairs also funds rehabilitation for service-related conditions and support for veterans to live at home.

Veterans' Affairs will fund private specialist treatment for accepted conditions if a veteran's illness or injury is severe, no treatment is available through the public system, any unreasonable delay could cause harm, and private treatment would help the veteran return to work.

Ministry of Social Development

The Ministry of Social Development provides employment, income support, social and housing assistance, and superannuation support to New Zealanders. The ministry administers the veteran's pension on behalf of Veterans' Affairs. In some cases, it also provides social assistance for eligible veterans and their spouses/partners, such as income support, housing support and home help. The ministry does not count the war disablement pension, disablement pension, surviving spouse or partner pension, children's pension or dependant's pension as income when income testing for the social assistance entitlements it provides.

Advocacy and support organisations

Many organisations provide advocacy, advice and support to people in New Zealand. Examples include the Nationwide Health and Disability Advocacy Service, Age Concern, Beneficiaries Advocacy and Information Services, and Community Law. Two organisations provide advocacy support specifically for veterans and their families – the Royal New Zealand Returned and Services' Association (RNZRSA) and the No Duff Charitable Trust (No Duff).

The RNZRSA provides welfare support, advocacy and financial assistance to current and former service people and their families. It has 180 local branches nationwide. Of these, about three-quarters provide advocacy and support services.

No Duff provides immediate support to veterans in need. Established in 2016, it provides a first response to veterans in critical need, helps stabilise the individual, and works with other agencies to put in place long-term care, including case management and co-ordination of support services.

Appendix D: Consultation questions

Three important questions to answer

1. What do you think works well in the Act?
2. What doesn't work well, or could be improved or clarified?
3. Would you like to see any specific changes? If so, what are they, and why is change needed?

Access to and eligibility for entitlements and support

4. Do you have any views on how to eliminate barriers to seeking and accessing assistance under the Act?
5. Do you have concerns about how the principles in the Act have been put into practice over the past two years?
6. Do you think any changes are needed to the principles? What changes would you like, and why?
7. Do you think the Act should place responsibilities on the people receiving entitlements and support under the Act? If so, what should they be?
8. Do you think the current threshold of "significant risk of harm", for the Minister to declare "qualifying operational service", is too high? Do you think factors other than operational and environmental threats should be taken into account? If so, what are they, and why?
9. Do you agree with the definition of "veteran" used in the Act? If not, what would you change?
10. Do you think the Act should make clear how to manage multiple entitlements? If so, how do you think multiple entitlements should be managed?
11. Do you think eligible veterans should automatically receive a Veterans' Pension instead of New Zealand Superannuation? Do you have anything else you'd like to raise about the Veterans' Pension?

- 12.** Do you think the estate of a deceased veteran or claimant should be able to access a lump sum or other entitlements? If so, why, and under what circumstances?
- 13.** Do you think family members, not just veterans' estates, should be able to access lump sums or other entitlements?
- 14.** Do you think all entitlements should continue to be paid for 28 days after the death of a veteran?
- 15.** Do you think the current eligibility criteria could be simplified so that all spouses or partners of deceased veterans with qualifying operational service are eligible for a Surviving Spouse or Partner Pension? If so, why?
- 16.** Do you think the Surviving Spouse or Partner Pension should be able to be reinstated after the spouse or partner enters then leaves a new relationship? Should the Act state how many times this can happen?
- 17.** Do you think the current definition of "child" is adequate? If not, how would you change it? Do you think the definition should reflect the financial independence of the child on the veteran?

Services and support available to veterans and their families

- 18.** Does the range and type of services provided under the Act meet your needs? If not, why not? Should any other services or support be included?
- 19.** Can you suggest how and why to better include families in a veteran's rehabilitation and treatment?
- 20.** What other services would be helpful for families as part of a veteran's rehabilitation and treatment?
- 21.** Do you think children in any type of unpaid full-time or part-time study or training should be eligible for the Children's Bursary?
- 22.** Should the Act allow Veterans' Affairs to pay for private treatment of injury or illness? If so, when and why?

- 23.** Are there any treatment providers not currently recognised under the Act that you think should be added to the regulations? Who, and why?
- 24.** What support should veterans and their families be eligible for while overseas? What considerations should be taken into account? Should it matter whether veterans and their families are living in another country or just visiting temporarily?
- 25.** Should the support given to a deceased veteran's spouse, partner and other family members under the Veterans' Independence Programme be based on the family's needs, rather than the services and support the veteran was receiving? How would this change the nature of services provided?
- 26.** Should families have the choice to access their 12 months of support under the Veterans' Independence Programme when a veteran moves into permanent care?
- 27.** Would you like to raise any other matters about the services provided under the Veterans' Independence Programme?
- 28.** Should the families of all veterans be entitled to support for a veteran's funeral (not just families of veterans whose death is due to qualifying service, or who are receiving income support entitlements). Why? Or what would you propose instead?
- 29.** Is Veterans' Affairs' current contribution to funeral costs sufficient? If not, what level of support would you propose instead?
- 30.** Should the families of all veterans, including Commonwealth veterans, be entitled to assistance for the cost of plaques and headstones? Why?

Wording and organisation of the Act

- 31.** Has the right balance been struck between what is in the Act, regulations and operational policies? If not, what would you change?
- 32.** Where could the Act be clarified or made more consistent? What would you change?
- 33.** What common provisions in the Act should be collected in the same place?
- 34.** What words or phrases in the Act would benefit from a definition or change of terminology?
- 35.** Should the Act allow Veterans' Affairs to reconsider any decision under the War Pensions Act 1954 or the Veterans' Support Act 2014, if it thinks there may have been an error or if there's new information?
- 36.** Does it make sense to combine the common elements of treatment and rehabilitation into common provisions in the Act? If not, why not?

Effectiveness and efficiency of processes around the Act

- 37.** Is the 30-day timeframe for making decisions about entitlements too restrictive? Should the Act be changed to require Veterans' Affairs to deal with decisions promptly, taking into account the particular circumstances and considerations of fairness? If not, why not? What would you propose instead?
- 38.** Could agencies and sectors work together better when delivering support to veterans? If so, how?
- 39.** Are there any changes needed to the role and operation of the advisory or decision-making bodies under the Act? If is, why and what?
- 40.** Do you have an opinion on how the Australian Statements of Principles are used to determine entitlements? Would you suggest a different approach? What, and why?

- 41.** Is there an easier way to adopt the Australian Statements of Principles? If so, what would you recommend, and why?
- 42.** Should any other entitlements be combined to increase efficiency and effectiveness? If so, what are they, and why?

Other issues to do with the Act

- 43.** Do you have any ideas about how to make sure the Act supports veterans and their families into the future?
- 44.** Do you think a further review of the Act is needed? If so, when, and what do you think should be covered?
- 45.** Do you have any other matters you'd like to raise?