



# **Inquiry into the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024**

Productivity Commission submission

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**The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.**

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## Introduction

The Productivity Commission welcomes the opportunity to make this submission to the Senate Foreign Affairs, Defence and Trade Legislation Committee's Inquiry into the Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024 (the VETS Bill).

In important ways, the VETS Bill reflects findings and recommendations made by the Productivity Commission in its 2019 inquiry *A Better Way to Support Veterans* (PC 2019). Most importantly, it makes the *Military Rehabilitation and Compensation Act 2004* (MRCA) the predominant piece of veterans' compensation and rehabilitation legislation.

The Commission supports the VETS Bill and acknowledges the work of the Department of Veterans' Affairs (DVA) in simplifying the legislative arrangements. The Commission recognises that reform in this area necessitates difficult compromises, because it is not possible to achieve simplification without affecting some veterans' potential entitlements.

That said, the Commission does believe that there are opportunities to strengthen the Bill through further simplification of the system, and through increasing its focus on veterans' lifetime wellbeing. These opportunities are the focus of this submission.

## A missed opportunity for simplification

### The VETS Bill will retain the root causes of complexity

The veterans' compensation and rehabilitation system is complex. It is difficult for veterans and their families to navigate and for DVA to administer. There is overwhelming evidence that the three Act system needs to be simplified (see, for example, Boss 2021; DVSRC 2022; PC 2019; SFADTRC 2017).

The Commission is aware that a considerable number of veterans and veteran groups want the system to be simplified without the loss of any entitlements. However, this is not possible – a system that does not reassess the existing benefits will continue to become more and more complex. Reform in this area is not possible without affecting some veterans' potential entitlements. And it is the reluctance by governments to remove payments and the grandfathering of compensation benefits that is, at least in part, the root cause of the complexity of the current system.

It is, therefore, disappointing that the VETS Bill retains and grandfathers all existing entitlements under the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) and the *Veterans' Entitlements Act 1986* (VEA).

- This will particularly affect veterans who are currently covered by the VEA or DRCA, as any new claims they make will be under the new MRCA. These veterans, currently covered by one scheme, will instead effectively be covered by two schemes – their existing scheme and the new MRCA. This is likely to increase – rather than reduce – the complexity of the system for those individuals.
- It also means that complicated offsetting arrangements will continue to be required. Compensation offsetting between the Acts can be complex and confusing for veterans to understand, and difficult for the DVA to administer.

## **The VETS Bill will not provide equal rates of compensation for veterans with different types of service**

Under the MRCA, veterans with impairments relating to warlike and non-warlike service receive different rates of permanent impairment compensation from those with peacetime service. These different rates of compensation:

- add to the complexity of the system
- are burdensome, in that they require veterans to demonstrate whether their injury was suffered as a result of operational service or not
- create inequities between different groups of veterans.

As a matter of principle, an injury is an injury, irrespective of how that injury is acquired.

The Commission therefore disagrees – noting that there is no consensus on this issue in the veteran community – that an injury acquired in warlike service should result in a different level of compensation to an equivalent injury acquired in another military setting. Different operational settings may require different forms of recognition – such as different levels of pay and allowances – but the compensation regime is not the right vehicle for such recognition.

Because it maintains different rates of permanent impairment compensation across warlike, non-warlike and peacetime impairments, the VETS Bill represents a missed opportunity to increase equity between veterans and reduce the complexity of the system.

## **The VETS Bill will maintain the unnecessary complexity of small payments and allowances**

While moving to a single ongoing Act for veteran compensation and support would be one step towards creating a simpler system, the VETS Bill does little to resolve the complexity within each Act.

As the Commission noted in 2019 (PC 2019), each Act includes many additional payments beyond those typically provided by workers' compensation schemes (such as payments for damaged clothing, vehicle allowances and education payments). In 2019, the Commission found that veterans and their dependants can be eligible for at least 40 different payments or benefits, depending on the Act they are covered by and the impairment the veteran has suffered. Some payments are available in a lump sum, some are paid weekly, and only some are taxed. Some benefits are in the form of subsidised access to health care. And, as noted above, eligibility for these payments can vary depending on whether the impairment is related to operational service or not. The range of benefits is extensive and often information about them is not necessarily well understood by veterans and their families, meaning they may not be accessing all of their entitlements.

While the VETS Bill would lead to several payments (such as the clothing allowance and recreation transport allowance) no longer being granted, it represents a missed opportunity for further simplification. The rationale for continuing the energy supplement in the improved version of the MRCA is particularly weak (box 1).

The VETS Bill would be enhanced by looking more closely at opportunities to remove and pay out smaller payments, and to consolidate supplements into underlying payments.

**Box 1 – A missed opportunity to remove outdated payments: the energy supplement**

The energy supplement was put in place to help clients with higher energy costs as a result of the carbon tax. The carbon tax, however, is no longer in place.

The rationale for the additional veteran supplements is weak.

- First, if supplements are needed to assist with the cost of certain expenses, it is unclear why this could not be achieved through an increase in the underlying payment, rather than as a separate payment.
- Second, while there is some rationale for attaching cost of living compensation to income support payments – such as the service pension – there is no rationale for attaching such supplements to impairment compensation. These payments are not designed to cover living expenses – rather, they are compensation for pain and suffering.

Separate supplements add to administrative burden without benefiting veterans and their families. For example, someone who receives a permanent impairment lump sum under MRCA will continue to have their fortnightly MRCA supplement paid at the low rate of \$6.20 or the high rate of \$12.40 for the rest of their lives – this makes little sense. Similarly, those who access the White Card for non-liability health care and do not receive any other payment are also entitled to this supplement of \$6.20 a fortnight.

The supplements are needlessly complex.

- The supplements are sometimes included in the underlying payment and sometimes not.
- Supplements can be subject to different levels of indexation than their underlying payments that can result in extra complications when trying to remove or roll-in the payment.

In 2015, the report of the Reference Group on Welfare Reform to the Minister for Social Services summed up the current state of supplements in the Australian welfare system:

Some supplements have a strong rationale while others have remained in the system long after the rationale has passed. In some cases, more than one supplement is performing equivalent roles. In many cases, there is no reason why the supplement cannot be rolled into the primary payment. (McClure et al. 2015, p. 45)

The Commission agrees with this analysis and finds little rationale for the structure of these payments, which add to the complexity of the system and can cause confusion without providing additional benefits.

Source: PC (2019, p. 677).

## A missed opportunity to design a system to promote veterans' lifetime wellbeing

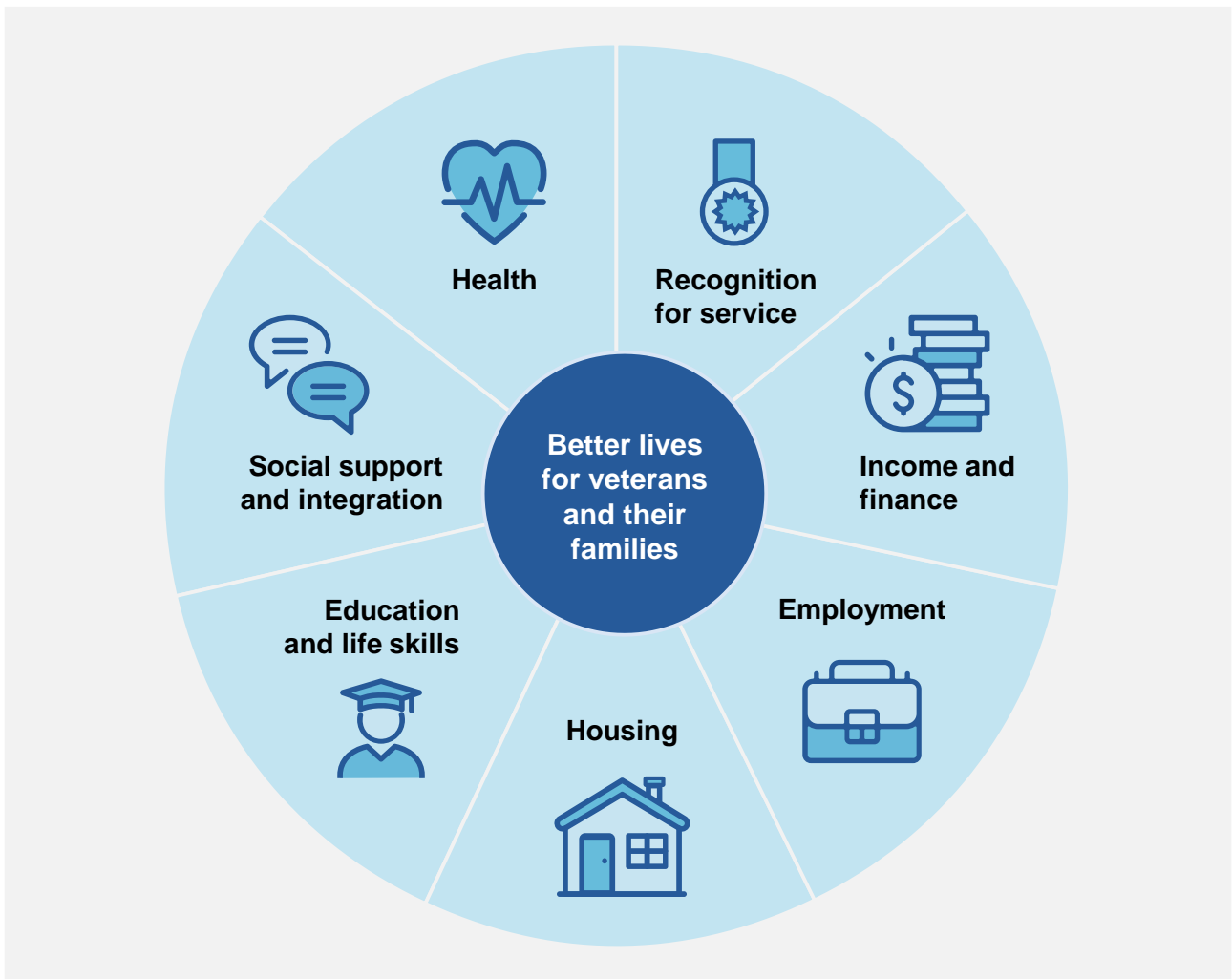
### Lifetime wellbeing should be the focus of the veteran support system

The overarching objective of the veteran support system should be to enable veterans and their families to live normal and meaningful lives by improving their wellbeing, taking a whole-of-life approach. This objective should be achieved while ensuring supports are provided in the most effective and efficient way.

Taking a whole-of-life approach is important for getting the best outcomes for veterans and their families and ensuring an affordable and sustainable system. A whole-of-life approach encompasses all of the domains of veteran wellbeing (figure 1).

The VETS Bill, while an improvement on current arrangements, does not take a holistic approach to veteran wellbeing across each of the domains. As such, it risks perpetuating a negative entitlement culture where success for veterans is the extraction of cash from the government, not their rehabilitation and return to being a productive member of civilian society.

**Figure 1 – Domains of veteran wellbeing**



Source: PC (2019, p. 172).

Using a wellbeing approach to support veterans and their families, together with insights from best-practice workers' compensation and contemporary social insurance schemes, the Commission considers that the veteran support system should be:

- wellness focused (*ability* not disability)
- equitable
- veteran centric (including recognising the unique needs of veterans and their families resulting from military service)
- needs based
- evidence based
- administratively efficient (easy to navigate and achieves timely and consistent assessments and decision making)
- financially sustainable and affordable.

These principles should underpin the veteran support system.

The VETS Bill, while an improvement on current arrangements, falls short of delivering the fundamental reform required to implement the wellbeing approach and the principles outlined above.

Indeed, the largest gains from reform are likely to come from improving the governance structures and claims processes, rather than from legislative reform.

As the Interim National Commissioner for Defence and Veteran Suicide Prevention put it:

... trying to make the system work by simplifying or harmonising the current legislative framework, and doing it through a process that is, in the Australian Government's words, 'evolutionary' and according to a 'legislative harmonisation plan over time,' will not be enough. The entire legislative framework needs to be fundamentally reimagined and transformed from its current 'illness' model to a modern 'wellness' model. (Boss 2021, p. 141)

## **Gold cards are not wellness-focused or needs based**

One example of the way in which the VETS Bill misses the opportunity to move towards a lifetime wellbeing model is in the approach taken to the Gold Card – specifically, that it extends the eligibility for the Gold Card to DRCA veterans.

The Gold Card works against the principle of wellness by providing an incentive for veterans to seek to qualify for higher levels of support. A veteran with service-related impairments can substantially increase their compensation package by reaching the Gold Card eligibility.

Veterans can also be discouraged from seeking early intervention (which can lead to higher use of more expensive treatments) so they can maintain access to the Gold Card. The Gold Card can also encourage over-servicing of clients by providers. This could mean that veterans receive treatments that are unnecessary or ineffective.

While the Commission acknowledges that the Government did not accept its recommendation that the Gold Card should be more tightly targeted and should not be extended to any new categories of recipients, it remains the case that Gold Cards are not focussed on the wellbeing outcomes that the veteran support system should be designed to promote.

## References

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