



THE NEED FOR AN INDEPENDENT ADVOCACY BODY MANDATED TO REPRESENT THE INTERESTS AND WELLBEING OF THE VETERANS' COMMUNITY TO THE MINISTER/FEDERAL GOVERNMENT

Executive Summary

There is currently no mandated body for providing independent advice or advocacy to represent the interests of defence personnel, veterans and families to the Minister or federal government. Existing bodies including ESORT and RSL National are not properly mandated to perform this role and have proven ineffective. Existing arrangements are not only a barrier to urgent, comprehensive reform, but marginalise the needs of some of the most vulnerable members of the veterans community. There is a need to establish a genuinely independent, properly constituted body, mandated to effectively advocate for the interests of veterans and families with the federal government.

Issue Description

The various other papers presented to this symposium focus largely on the need for improved governance of Ex-Service Organisations (ESOs), provision of services, urgent reforms to the Department of Veterans Affairs (DVA) and the department's governing legislation. From a strategic standpoint, there is a requirement to develop a formal mechanism to properly represent the interests of the defence and veterans' community to the Minister for Defence Personnel and Veterans' Affairs, and the federal government.

There is a perverse misperception that the DVA-led ESO Round Table (ESORT) has an exclusive, legal mandate to represent the interests of the veterans community to the Minister or federal government. The ESORT Terms of Reference state that the purpose of this forum is "to enhance the capacity of the Repatriation Commission and MRCC to address issues of strategic importance to the ex-service and defence communities and assist in setting strategic directions for the medium to long term." ESORT is chaired by the Secretary of DVA (in her capacity as the Chair of the MRCC). The forum is scheduled, hosted, organised, funded and 'minuted' by DVA, and administered according to DVA departmental policies and procedures. Although one of ESORT's objectives is to serve as the main body for consultation on five legislative acts, nowhere do the Terms of Reference state that this body is an exclusive avenue for advice, representation or advocacy to the Minister.

A body chaired and administered by the Secretary of a federal government department is not, by definition, independent of government. Further, by controlling and filtering purportedly independent advice to the Minister, the current arrangement of a ministerial "advisory" body chaired by a departmental secretary is perverting democratic process, undermining the rule of law, preventing urgent reforms and further marginalising some of the most vulnerable members of the veterans community.

Similarly, RSL National is often described as the "peak national veterans' advocacy body", however the organisation has no such legal mandate and is not properly constituted to perform any such role. Although the RSL constitution states that the organisation is "established for the principal purpose of promoting the interests and welfare" of ADF personnel, veterans and families, there is no mention of any formal, exclusive or "peak" advocacy role with the federal government. Further, the RSL National President is not elected by its members, indeed the "membership" of RSL National consists only of its state branch leaders. Individual rank-and-file members of state RSLs are not members of "RSL National" and have no say in the appointment of the National President. RSL National has no mandate as a "peak advocacy body" either within its own constitution or in federal legislation.

Notwithstanding the absence of any existing mandate, ESORT and RSL National have amply demonstrated that they are unwilling to, and incapable of, effectively advocating for the urgent and comprehensive reforms required in the veterans' portfolio. Worse, these organisations have at times actively opposed key reforms while undermining democratic process. A case in point is an "ESORT resolution" of 22 June 2019 (cited in an Alliance of Defence Service Organisations media release of 23 June 2019) purporting to unanimously oppose the establishment of the Royal Commission into Veteran Suicide. The minutes of ESORT meetings posted on the DVA website show that there was an ESORT meeting (chaired by the DVA Secretary) on 21 June 2019, but there was no such "resolution" at that meeting. If there was such a "resolution" discussed between ESORT members on 22 June, this meeting was not properly constituted in accordance with the ESORT Terms of Reference and therefore carried no lawful mandate, even before considering whether such a "resolution" reflected the will or interests of the members of each ESO or the veterans community more broadly.

The breadth, complexity and seriousness of issues currently affecting the interests and wellbeing of veterans and families are also well beyond the capacity of ESORT or RSL National to properly advocate or represent to the federal



government. Although ESORT members do have some expertise in relevant veterans entitlement legislation, they typically do not have expertise, academic qualifications or relevant experience across the breadth of complex medical, scientific, social or legal matters. The exclusivity of this body, a misperceived "mandate" and a requirement to "lobby" its members to voice important concerns (often life-threatening or involving serious misconduct by senior government officials), means that some of the most vulnerable members of the veterans community are effectively marginalised from proper representation or advocacy to the federal government. Even when important concerns do make the agenda, DVA or other government officials frequently mislead or deceive ESO representatives who do not have the necessary expertise in the matters under consideration, or whose integrity has been compromised by political agendas, funding considerations or other conflicts of interest.

Recommendations

This symposium should propose the establishment of a genuinely independent, properly constituted body to effectively advocate for the interests of veterans and families with the federal government, via a formal mandate with the Minister for Defence Personnel and Veterans' Affairs. The symposium should consider a first-principles approach in the design and establishment of this body and its written mandate. The below principles are not exhaustive but emphasise the need to address the shortcomings and perversities of the current "system":

- 1) The body is completely independent of DVA and any other government department.
- 2) The body advocates for the interests and wellbeing of defence personnel, veterans and families directly via the Minister for Defence Personnel and Veterans Affairs, or other ministers (including the Prime Minister) as appropriate.
- 3) The body may engage with the DVA Secretary or other departmental officials in formulating advocacy or advice to the Minister, however no departmental official acts as an intermediary between the body and the Minister. The body maintains the discretion for confidential communications with the Minister as necessary, independent of input from the DVA Secretary or other departmental officials.
- 4) While much of the body's advocacy and advice will focus on matters governed by legislation administered by the Minister for Defence Personnel and Veterans Affairs (including the Acts governing veteran entitlements) the body is also mandated to advocate on matters outside the scope of that legislation but affecting the interests and wellbeing of defence personnel, veterans and families (hence the need to engage with other Ministers or the Prime Minister as necessary).
- 5) While representatives of membership-based ESOs may comprise some of the body's membership or leadership, the body will actively seek to recognise and empower vulnerable or marginalised groups or individuals in the veterans community, supporting and facilitating direct engagement and advocacy with ministers or other government officials as necessary.
- 6) The body will actively seek to include appropriate experts in relevant meetings or direct communications with ministers or other government officials, particularly when providing advice or advocacy in complex medical, scientific, social, legal or other matters beyond the expertise of its members.

DEFINITIONS

For the purpose of this paper the term ***advocacy*** refers to: "Advocating for the interests and wellbeing of defence personnel, veterans and families through direct engagement with federal government ministers, other government officials, the public and the media." This is distinct from the term advocacy in the context of paralegal or administrative advocacy for individuals claiming recognition or entitlements under the Acts governing veteran entitlements.

