

The Auditor-General
Audit Report No.29 2000–2001
Performance Audit

Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions

**Department of Veterans' Affairs
Veterans' Review Board**

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of Australia 2001
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Canberra ACT
28 February 2001

Dear Madam President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Veterans' Affairs and the Veterans' Review Board in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—
<http://www.anao.gov.au>.

Yours sincerely



P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Australian War Memorial

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Abbreviations

AAT	Administrative Appeals Tribunal
ART	Administrative Review Tribunal
AGR	Above General Rate
ANAO	Australian National Audit Office
CCPS	Compensation Claims Processing System
DVA	Department of Veterans' Affairs
ESO	Ex-Service Organisation
MCRS	Military Compensation and Rehabilitation Scheme
QA	Quality Assurance
RMA	Repatriation Medical Authority
R&SL	Returned and Services League
SoP	Statements of Principle
TPI	Totally and Permanently Incapacitated
TTTP	Total Time Taken to Process
VEA	<i>Veterans' Entitlements Act 1986</i>
VRB	Veterans' Review Board

Glossary

's137' report	Report prepared by DVA under s137 of the VEA for provision to the applicant and the VRB when an applicant appeals to the VRB against a compensation decision. It contains a summary of the relevant evidence used to make the primary decision.
's31' review	See 'internal review'.
's37' report	Report prepared by DVA under s37 of the Administrative Appeals Tribunal Act for provision to the applicant and the VRB when an applicant appeals to the AAT against a compensation decision. It contains a summary of the relevant evidence used to make the primary decision.
Assessment	Assessment refers to determining the level of disability and therefore the rate of pension payable in compensation.
Deputy Commissioner	A Deputy Commissioner is responsible for the management of each of the DVA State Offices. Deputy Commissioners are, however, not formally members of the Repatriation Commission.
Entitlement	Entitlement refers to determining whether a disability is accepted as war-caused and the veteran therefore entitled to compensation.
External review	Review by VRB, AAT or by the Federal/High courts.
Internal review	Review of primary decisions under s31 of the VEA by departmental officers acting as delegates of the Repatriation Commission.
Quality Assurance	A systematic approach to monitoring the quality of key processes with the aim of ensuring uniform standards and improving procedures.
Statement of Principles	Medical Statement of Principles are published by the Repatriation Medical Authority and set out the relevant sound scientific medical evidence which is required to support claims for particular disabilities.

Summary and Recommendations

Summary

Background

1. Repatriation compensation has evolved in Australia to reflect the nation's obligation to those who have served it in war or other conflict. Disability compensation is one of the three main types of Repatriation benefit which aim to meet these obligations. The other main benefits available to veterans are income support payments and health care and support services of a non-financial nature.

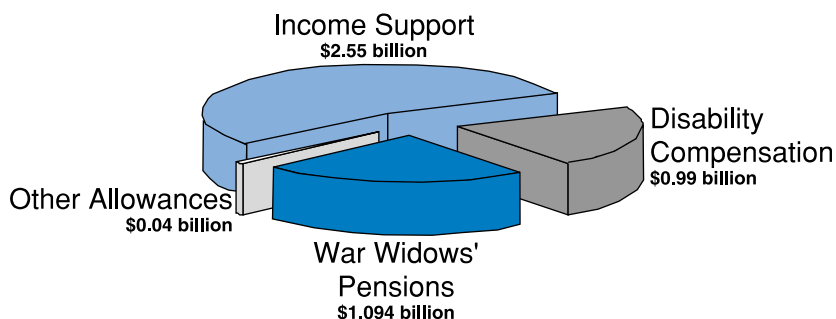
2. The objectives of the Department of Veterans' Affairs (DVA) disability compensation sub-program are:

- to compensate eligible veterans and other eligible persons for the loss of physical or mental well being resulting from incapacity caused by eligible war service, and the effects of that loss on lifestyle, including employability; and
- to compensate dependants for the death of a spouse/partner or parent as a result of eligible war service.

3. Figure 1 shows that, in 1999–2000, of the total appropriation of approximately \$4.7 billion for departmental Outcome 1¹, approximately \$2.1 billion was appropriated for disability compensation and war widows' pensions. Approximately 330 000 veterans, war widows, orphans and dependants received payments funded from this appropriation. In 2000–01, approximately \$2.6 billion was appropriated for this purpose.

Figure 1

Appropriations for Outcome 1—Income Support and Compensation—Administered Expenses 1999–2000¹



¹ Outcome 1 is the delivery by the Department of Veterans' Affairs of compensation and income support pensions and associated benefits in accordance with the Government's commitment to provide financial compensation and income support to veterans and their dependants on an equitable basis.

4. The Repatriation Commission is responsible to the Minister for Veterans' Affairs for the general administration of the *Veterans' Entitlements Act 1986* and for the granting of pensions, allowances and other benefits, providing treatment and other services, advice to the Minister on the operation of the Act and, subject to the Minister's control, generally administering the Act. However, the Repatriation Commission has no staff of its own. DVA provides the necessary administrative support and policy advice to the Commission and is responsible for carrying out the Commission's policies and programs. It administers claims and pensions, and its officers determine compensation claims under delegation from the Repatriation Commission.

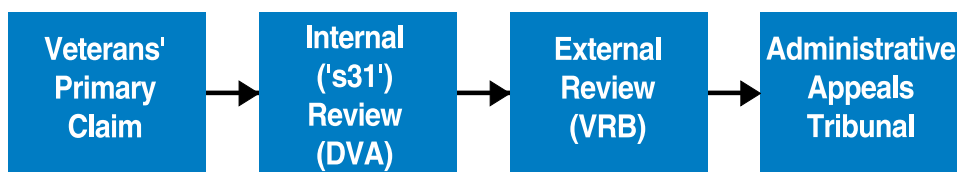
5. Under the disability compensation sub-program, eligible persons receive disability pensions, war widows' pensions and/or ancillary benefits. Decisions on compensation claims are made by DVA officers, who are delegates of the Repatriation Commission. In 1999–2000, veterans submitted approximately 54 526 claims². Over the same period, the Department finalised 54 884 claims at the primary level. The claims for disability compensation involved over 70 000 individual disabilities. The Repatriation Commission accepted almost 60 per cent of these individual disabilities.

6. Compensation payments to veterans with a war-caused disability can range from a \$684 per year if a veteran is assessed at 10 per cent of the General Rate, to over \$18 000 if a veteran receives a Special Rate pension.³ A war widow(er)'s pension is approximately \$11 200 per year. Disability pensions are not taxed. A range of other related allowances is also available to eligible applicants.

7. As with other administrative decisions, Repatriation Commission decisions on disability compensation may be reviewed in response to any appeal by an applicant. The key merit review steps are shown in Figure 2.

Figure 2

Key steps in disability compensation review



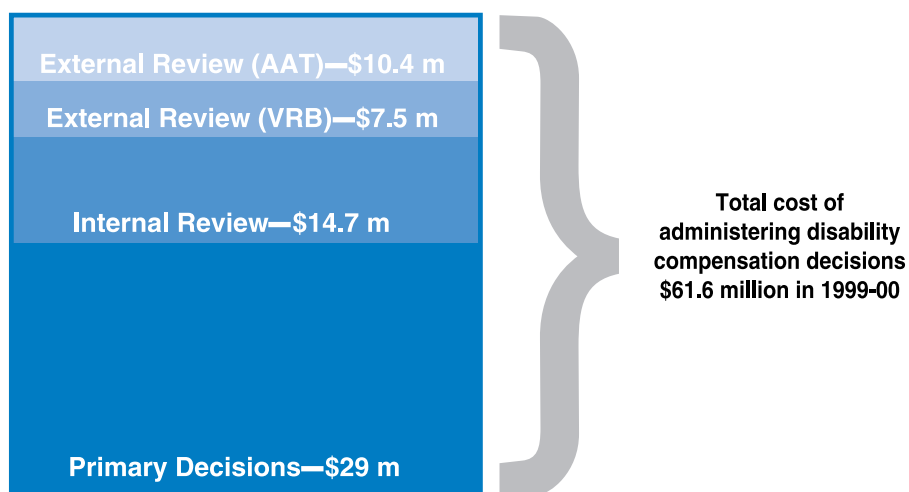
² This figure includes veteran disability claims, veteran applications for increased disability pension, war widow(er) claims and pension assessments referred to the Repatriation Commission by the VRB and AAT.

³ Full details of current pensions and rates are available via factsheets on DVA's website at www.dva.gov.au/pensions.

8. The first level of review of disability compensation decisions is internal review by the Repatriation Commission. Under s31 of the *Veterans' Entitlements Act 1986* (the VEA) the Commission has power to review its own decisions. If dissatisfied with a decision, the applicant may appeal to the Veterans' Review Board (VRB)⁴ and, then, if the applicant wishes, to the Administrative Appeals Tribunal (AAT). Review of compensation decisions by the VRB and the AAT is known as external review. Cases may also be appealed to the Federal Court and to the High Court on points of law rather than merit.

Figure 3

Costs of administering disability compensation decisions 1999–2000⁵



9. As shown in Figure 3, costs of internal and external review were approximately \$32 million in 1999–2000. This represents just over half of the total cost of \$61.6 million of administering veterans' compensation decisions, and as such it is a very significant administrative cost.

⁴ The VRB's function is to review decisions of the Repatriation Commission on such matters as death or disability compensation claims and associated allowances. VRB was established by the *Repatriation Legislation Amendment Act 1984* and began operation in January 1985. Since 1986 the VRB's operations have been governed by the *Veterans' Entitlements Act 1986*. It is an independent statutory authority, although for administrative purposes it is included as a sub-program of DVA. The Minister for Veterans' Affairs has no power of direction over the VRB.

⁵ DVA advised that the figure of \$10.4 million for the cost of external review is an estimate only because legal aid in the veterans' jurisdiction is not capped. The \$14.7 million for internal review includes DVA's costs of supporting the external review processes (including preparation of reports on the evidence for VRB and AAT).

The audit

Audit objective

10. The audit objective was to examine the management by DVA and VRB of the review of decisions by the Repatriation Commission on veterans' claims for disability compensation. In order to achieve this objective, the audit:

- assessed DVA's and VRB's management of the cost, quality and timeliness of reviews; and
- sought to identify opportunities for improving the management of the review of veterans' compensation decisions.

11. As well, the ANAO followed up the recommendations of Audit Report No.3, 1996–97, *Compensation Pensions to Veterans and War Widows*. The six recommendations made in Report No.3 focussed on primary decision-making on disability compensation. They are relevant to review arrangements because they were aimed at improving performance indicators, consistency of decision-making, quality assurance and procurement of appropriate medical evidence in support of claims.

Audit scope

12. The ANAO examined the management of the review process from the time of the veteran's submission of an appeal against a primary decision until the notification of a decision by the VRB. The focus of the audit was on management of internal review within DVA and the first level of external review at the VRB. Higher levels of external review at the AAT and the courts were excluded from the audit scope.

Overall conclusion

13. The ANAO concluded that, overall, DVA and VRB are managing reviews adequately within the legislation. However, DVA could improve key aspects of reviews by:

- minimising the level of appeals through continued improvement of the quality of investigation and reasons for decision at the primary claim assessment level;
- making wider use of quality assurance of internal reviews; and
- improving the quality and timeliness of reports of evidence to veterans and the VRB for the purposes of external review by:
 - clearly identifying relevant evidence considered when making the primary decision;

- providing formal guidance and training for DVA staff who prepare reports on the evidence; and
- implementing systematic quality assurance of reports on evidence.

14. These measures outlined above are directed at reducing the high cost of review action relative to the cost of administering the primary decision-making process for veterans' compensation.

15. Representatives from Ex-Service Organisations (ESOs) assist veterans with preparation of their appeals.⁶ They provide varying levels of service to veterans, arising from their different levels of knowledge, expertise, experience and workload capacity. DVA should seek to ensure greater consistency in the level of service provided by voluntary advocates, and consider the costs and benefits of supplementing their work with an advocacy service of choice funded on a fee-for-service basis. Any such extension of advocacy on a fee-for-service basis would be, of course, a policy matter, requiring Ministerial decision.

16. The ANAO noted that the department has implemented a range of initiatives over recent years, including, among other things, introduction of a computer-based decision support system and medical Statements of Principles to improve the consistency and accuracy of deciding veterans' claims for compensation. In addition, the department has adequately implemented all the recommendations of ANAO Report No.3 1996–97 *Compensation Pensions to Veterans and War Widows*.

17. Both the department and the VRB have developed and continue to maintain good working relationships with ESOs, which are generally satisfied with the improvements which have been put in place.

18. The ANAO made four recommendations in this report. DVA and VRB agreed with these recommendations which aim to:

- minimise the level of appeals by continuing to improve the quality of investigation and reasons for decision at the primary level;
- encourage settlement of appeals at the earliest possible stage;
- improve the department's preparation of reports on the evidence;
- better manage the risks to the timeliness and quality of reviews which arise from a diminishing pool of volunteer representatives; and
- ensure a common method of counting appeal cases and decisions.

⁶ Most representatives are volunteers but a small number are paid by the Ex-Service Organisations. VRB estimates that at least 25 per cent of cases are represented by paid advocates.

Key Findings

Department of Veterans' Affairs

Cost of reviews

19. DVA conducted approximately 5400 internal reviews in 1999–2000. The ANAO found that the department is not yet able to disaggregate the costs of its internal reviews from its other external review-related activities, such as preparation of reports on evidence for VRB and for the AAT⁷. The total cost of internal reviews and preparation of these reports was \$14.7 million in 1999–2000. More accurate cost information on internal review would allow the department to improve its assessment of the impact of its internal review activities on the level of appeals and thus on the administration of compensation decisions as a whole.

20. In 1999–2000, the VRB finalised approximately 9000 reviews. The ANAO found that the cost of all internal and external reviews (excluding the AAT) of veterans' disability compensation in 1999–2000 was just over half of the total cost of administering disability compensation decisions. This represents an increase of almost 20 per cent in the ratio of review costs to primary decision-making costs since 1991–92. This increase has occurred principally because of the significant savings which the department has achieved at the primary decision-making level, combined with a relatively small increase in the cost of internal review. For example, the department reduced the average cost of primary decisions from \$993 per case in 1991–92 to approximately \$530 in 1999–2000. It is not possible to provide comparable figures for the cost of internal review for the reasons outlined at paragraph 18.

21. The department has improved the efficiency of the administration of the compensation scheme as a whole by finalising almost 40 per cent more primary claims and conducting significantly more internal reviews from 1996–97 onwards.⁸ Internal review is a key means of reducing the

⁷ Reports on evidence considered at the primary claim assessment level are prepared under s137 of the VEA and known as 's137 reports'. Reports on evidence prepared for the Administrative Appeals Tribunal under s37 of the AAT Act are known as 's37 reports'.

⁸ Accurate data on the level of increase in internal review is not available. Prior to 1995–96 the department undertook an insignificant number of internal reviews and did not keep statistics on them. In 1995–96 the department completed a major project to reduce the number of appeals going to the VRB. This led to the expanded use of s31 review powers as an on-going function. Subsequently in 1998, DVA introduced an additional process in which all appeals to VRB were 'screened' for possible review action under s31.

level of applications for external review and thus the cost of administering decisions overall. There are, however, as yet no benchmarks which would allow an assessment of the extent to which DVA's internal review activity is effective in reducing the costs of external review or the efficiency of the administration of decision as a whole.

22. While the total costs of review have increased by over 10 per cent in real terms since 1991–92, the department has reduced the total costs of primary decision-making by more than 25 per cent. The larger number of internal reviews has, however, contributed to reducing the level of appeals to VRB as a percentage of all primary decisions. Indications are that the department's increased level of internal review activity, undertaken at a relatively low cost, has prevented increases in external review at VRB and AAT by resolving more claims at the lower and cheaper level of internal review.

23. Nevertheless, the ANAO also concluded that there is also a need to continue to ensure the best possible investigation at the primary level within available resources and to encourage earlier settlement of appeals. This could be facilitated through provision of greater incentives to obtain better evidence at an earlier stage of the process, preferably at the primary level but at a minimum at the internal review level. The ANAO envisages that provision of incentives could be achieved through consideration of a number of options, including, for example:

- making resources available earlier for the procurement of medical and other evidence (that is, at the primary level). This could include, for example, providing funds on a risk-managed basis for specialist medical examinations; and/or
- annual payments to ESOs and Veteran Service Centres based on a performance formula on the level of their claim activity and success rate ratios, with disincentives for VRB applications that raise new evidence not put forward at the primary level.

24. These examples are illustrative of approaches that could usefully be pursued to limit the level of review activity without increasing the resource demands of administering disability compensation decisions.

Internal review

25. The ANAO found that the department undertakes limited quality assurance checks of its internal review decisions. Although the department's internal review appears to be generally working to the satisfaction of its clients, DVA could ensure consistent approaches to internal review, in the environment in which responsibility for resourcing and operational management is devolved to State Offices, through wider

application of quality assurance to internal reviews. The department advised during the audit that work to include internal reviews in the quality assurance program has commenced.

Departmental reports on evidence

26. The ANAO also found that the department has not yet achieved the timeliness targets set out in the VEA for its reports on evidence to the VRB and applicants for the purposes of the VRB's external review⁹. The department has made significant progress in improving the quality and timeliness of these reports over the last two years, but further improvements in timeliness and quality could be achieved through:

- identification by the departmental primary decision-maker (as a delegate of the Repatriation Commission) of relevant evidence considered in making the original decision;
- formal guidance and training for departmental staff on the requirements for its reporting, reflecting VRB's guidance to its case officers; and
- quality assurance checks of these reports.

27. As well, investigation of the options available from use of scanning technologies may enable more efficient reproduction and dissemination of records to all parties.

Support to Ex-Service Organisations

28. DVA's approach to supporting the program of Ex-Service Organisation assistance to veterans is a positive initiative. However, the ANAO found that the diminishing availability of volunteers and the variable quality of advocacy services represents a key risk to the efficiency and effectiveness of the appeals process which is outside DVA's and VRB's direct control. DVA is aware of this and, through the Training and Information (TIP) and Building Excellence in Support and Training (BEST) programs as well as consultation with ESOs, has taken action to address the issue. However, the ANAO found no evidence that the department has any formal strategy or planning which would allow a strategic approach to managing this risk. The ANAO concludes that such a plan is required if the risk is to be managed effectively over the longer term.

⁹ Reports on evidence considered in making the primary decision are prepared in accordance with s137 of the VEA. They are generally known as 's137 reports'.

Case management

29. The ANAO found that DVA State Office staff spend a considerable amount of time responding to VRB's requests for current data on appeal cases. This inefficiency arises because DVA and VRB use separate case management systems and VRB does not have access, as a result of the application of the *Privacy Act 1988*, to the DVA system. There is scope for DVA to review its policy on VRB access to the relevant part of its computer system so that, while ensuring that the requirements of the Privacy Act are observed, VRB staff are able to access relevant data on veterans' appeal cases for the purposes of efficient case management.

Quality assurance of compensation decisions

30. As noted in paragraph 25, the ANAO found that although primary decisions are covered by the quality assurance program, quality assurance of internal review is limited. As well, there is no quality assurance of reports on evidence prepared by DVA for the purposes of external review by the VRB. The ANAO found that DVA is continuing work undertaken over recent years to further develop and refine a more robust quality assurance system. DVA advised that it plans to extend quality assurance to internal review and reports on evidence. DVA also envisages supporting this with a common computer based quality assurance reporting system for both the Disability Compensation and the Military Compensation and Rehabilitation Scheme (MCRS), although DVA advised that funding for this is not yet available.

Performance information

31. The ANAO found that DVA and VRB record appeal cases differently. The ANAO concluded that, in order to draw accurate conclusions about the progress of appeal cases through the administrative review system, data on appeals cases and decisions needs to be counted and interpreted in a consistent manner.

32. DVA has adequate performance measures in relation to quantity and timeliness of review activities. However, the department has no measures for the quality of its reports to the VRB and applicants on evidence considered in making the primary decision. The quality of these reports is important because they form the basis of veteran/representative preparation of appeal cases and VRB's decision-making on the case. Until recently, both VRB and ESOs have considered the quality of these reports to be below standard, but the department has had no objective means of measuring this.

Veterans' Review Board

33. Overall, the ANAO found that ESO representatives were satisfied with the level of service provided by the VRB. The ANAO considers that VRB is managing those aspects of the review process within its direct control in a timely and effective manner. This has been accomplished with little increase in cost over recent years, largely because the number of board members and hearings delivered has remained steady. The ANAO concluded that VRB is managing its part of the external review process so as to continually improve its performance.

Recommendations

The ANAO's recommendations, along with agency responses, are set out below. More detailed responses are shown in the body of the report. Recommendation No.1 has the highest priority.

Recommendation No.1 The ANAO recommends that, in order to minimise the overall cost of review, DVA and VRB should:

Para. 2.29

- minimise the level of appeals by continuing to improve the quality of investigation and reasons for decision at the primary claims assessment level; and
- develop suitable strategies to encourage settlement of an appeal at the earliest possible stage. These strategies could include making available appropriate allowances or incentives which encourage applicants to obtain adequate medical or other evidence as early as possible in the claims and/or review process.

DVA response: Agreed.

VRB response: Agreed.

Recommendation No.2 The ANAO recommends that the department should:

Para. 3.36

- ensure that, in cases where compensation is not awarded, claims assessors identify the evidence which they considered in making the primary decision in order to facilitate preparation of s137 reports on the evidence;
- ensure that formal guidance and training for DVA staff on the preparation of reports on the evidence reflects VRB documentation checklists; and
- investigate options for using scanning technology to minimise the resources currently allocated to photocopying multiple copies of reports on the evidence.

DVA response: Agreed.

**Recommendation
No.3
Para. 4.22**

The ANAO recommends that, in order to minimise the risks to the timeliness and quality of review which arise from the variable quality of services provided by a diminishing pool of volunteer representatives, DVA should, in partnership with Ex-Service Organisations, develop a formal strategic plan for providing advocacy support to veterans over the medium to long term. Such an approach could provide a means of dealing more effectively with the issues identified and providing greater confidence and accountability to all stakeholders.

DVA response: Agreed with qualification.

**Recommendation
No.4
Para. 4.50**

The ANAO recommends that, to ensure that performance information enables accurate assessment of performance in the appeal system, DVA and VRB should agree on a common method of counting appeal cases and decisions.

DVA response: Agreed.

VRB response: Agreed.

Audit Findings and Conclusions



Pakchon, Korea 1950. A wounded soldier of A Company, Headquarters, 3rd Battalion, The Royal Australian Regiment (3 RAR) lies in the field awaiting evacuation (AWM Negative Number 146961)

1. Introduction

This Chapter describes the arrangements for review of disability compensation decisions. It outlines the audit objective and approach and summarises recent reforms to veterans' compensation.

The nature and purpose of Repatriation compensation

1.1 Repatriation compensation has evolved in Australia to reflect the strong sense of obligation of the nation to those who have served it in times of conflict. The basic principles governing Repatriation legislation are that the nation is especially indebted to those who have given service to it in time of war by enlisting in the Armed Forces; and the nation has a duty to ensure that those who have thus served, together with their dependants, are properly cared for to the extent that they should never have to rely on charity.

1.2 Disability compensation is one of the three main types of Repatriation benefits which aim to meet these obligations. These are:

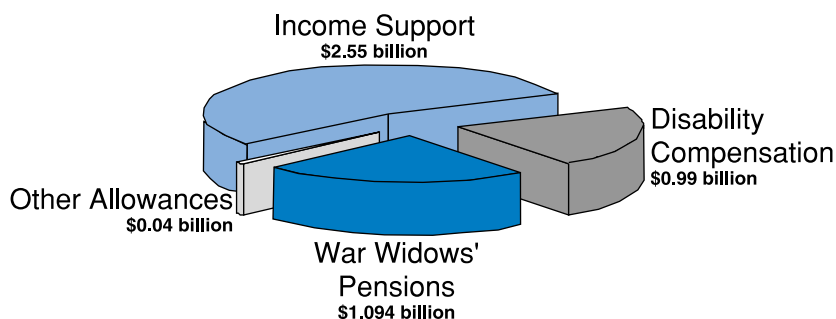
- compensation for the effects of war-caused incapacity, disability or death;
- income support; and
- health care and support services of a non-financial nature.

1.3 Figure 4 shows that, in 1999–2000, of the total of approximately \$4.7 billion appropriated for the purposes of departmental Outcome 1¹⁰, approximately \$2.1 billion was appropriated for the purposes of disability compensation and war widows' pensions. About 330 000 veterans, war widows, orphans and dependants received payments funded from this appropriation. Approximately \$2.6 billion was appropriated for this purpose in 2000–01.

¹⁰ Outcome 1 is the delivery by the Department of Veterans' Affairs of compensation and income support pensions and associated benefits in accordance with the Government's commitment to provide financial compensation and income support to veterans and their dependants on an equitable basis.

Figure 4

**Appropriations for Outcome 1—Income Support and Compensation—
Administered Expenses 1999–2000**



Objective of compensation

1.4 The objectives of the Department of Veterans' Affairs (DVA) disability compensation sub-program are:

- to compensate eligible veterans and other eligible persons for the loss of physical or mental well being resulting from incapacity caused by eligible war service, and the effects of that loss on lifestyle, including employability; and
- to compensate dependants for the death of a spouse/partner or parent as a result of eligible war service.

Decisions on compensation claims

1.5 The Repatriation Commission is responsible to the Minister for Veterans' Affairs for the general administration of the *Veterans' Entitlements Act 1986* and for the granting of pensions, allowances and other benefits, providing treatment and other services, advice to the Minister on the operation of the Act and, subject to the Minister's control, generally administering the Act. The Repatriation Commission has no staff of its own. DVA provides administrative support and policy advice to the Commission and is responsible for carrying out the Commission's policies and programs. It administers claims and pensions, and its officers determine compensation claims under delegation from the Repatriation Commission.

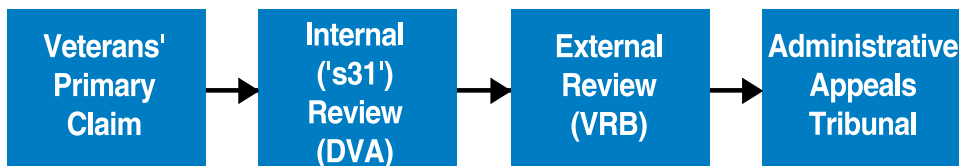
1.6 Under the disability compensation sub-program, eligible persons receive disability pensions, war widows' pensions and/or ancillary benefits. Decisions on compensation claims are made by DVA officers, who are delegates of the Repatriation Commission. In 1999–2000, veterans submitted approximately 54 526 claims. Over the same period, the department finalised 54 884 claims which involved over 70 000 individual disabilities at the primary level. The Repatriation Commission accepted almost 60 per cent of the individual disabilities.

Review of decisions

1.7 As with other administrative decisions, Repatriation Commission decisions on disability compensation may be reviewed in response to any appeal by an applicant. The key merit review steps are shown in Figure 5.

Figure 5

Key steps in disability compensation review



1.8 The first level of review of disability compensation appeals is internal review by the Repatriation Commission. Under s31 of the *Veterans' Entitlements Act 1986* (the VEA) the Commission has power to review its own decisions. Appeals can be made to the Veterans' Review Board (VRB)¹¹ and, then, where necessary, to the Administrative Appeals Tribunal (AAT). Review of appeals to the VRB and AAT is referred to as external review. Veterans may also appeal to the Federal Court and to the High Court on points of law rather than merit.

1.9 A veteran¹² may also request that DVA conduct an internal review under s31 of the VEA. If there is sufficient evidence on which to intervene and amend the decision, DVA will undertake the internal review. If the veteran decides to appeal to the VRB without requesting an internal review, DVA will still consider whether it should conduct an internal review because it is DVA policy to screen all appeals to VRB for possible internal review under s31 of the VEA. Following consideration of an internal review or the internal review itself, DVA then prepares a summary of the evidence considered in making the primary decision under s137 of the VEA. This is known as a 's137 report' and is provided to the applicant and to the VRB for the purposes of preparing and hearing the veteran's appeal.

¹¹ The VRB's function is to review decisions of the Repatriation Commission on such matters as death or disability compensation claims and associated allowances. VRB was established by the *Repatriation Legislation Amendment Act 1984* and began operation in January 1985. Since 1986 the VRB's operations have been governed by the *Veterans' Entitlements Act 1986*. It is an independent statutory authority, although for administrative purposes it is included as a sub-program of DVA. The Minister for Veterans' Affairs has no power of direction over the VRB.

¹² This report refers to 'veterans' throughout for brevity. It should be noted that as well as veterans, widows and dependants are also able to appeal Repatriation Commission decisions on compensation.

1.10 These appeal processes enable primary decisions to be corrected and provide veterans and their dependants with the opportunity to have their cases reheard. The VRB and AAT reconsider applications afresh, frequently considering new evidence, new arguments, new issues, new assessment periods and possibly new or different needs. This contrasts with the consideration of cases by the Courts which are confined to considering whether the reasons for the primary decisions legally were right or wrong on the evidence before the decision maker.

Key features of the disability compensation system

1.11 Disability compensation decisions are inherently complex. Decisions require medical-scientific evidence and, notwithstanding the department's introduction of a computer-based decision support system in the mid-1990s, they require training in medical conditions and terminology and also the experience to understand and interpret. Compensation claims can frequently include a number of different medical conditions, many of which, such as psychiatric conditions, are difficult to assess. There are over 260 different medical 'Statements of Principle' (SoPs)¹³ which set out the medical-scientific evidence required to link the cause of a disability to defence service. The SoPs themselves change over time as they are reviewed by the Repatriation Medical Authority (RMA).

1.12 As well, much of the related evidence, such as service personnel and medical records and the statements of evidence provided by veterans and their former colleagues in support of a claim can, due to the exigencies of operational service conditions and the passage of time, be incomplete, inconsistent and/or inaccurate. The passage of time is a significant factor. Claims for war-caused disabilities from World War 2 involve recollection of incidents which occurred more than fifty five years ago. It is common for documents, where they exist, to be illegible, have missing pages or to omit key items of information, such as dates of discharge. An example is provided at the end of this Chapter. These factors alone provide the department's Claims Assessors with significant challenges in investigating disability compensation claims at the primary level. The task of determining whether a disability was war-caused so long after the event is therefore difficult.

¹³ The SoPs state the factors which must exist to cause a particular kind of disease, injury or death. SoPs are listed on the Repatriation Medical Authority website at www.rma.gov.au.

1.13 Under the legislation, a veteran can submit a claim in a most informal manner. There is no obligation on the applicant to provide conclusive evidence in support of his or her claim. Rather, the VEA places the onus on the department to investigate the claim. Access to appeal is free and there are no other barriers or constraints for the veteran. The prospect of substantial financial gain for the veteran also encourages appeals.

1.14 New evidence can be introduced at any time. For example, many VRB decisions overturn primary decisions on the basis of new medical evidence introduced before or even during a hearing. While the business of determining primary claims can be difficult, review of appeals tends to be more complex because the evidentiary issues are more open to interpretation and debate.

Compensation rates

1.15 There are four main types of disability compensation payment. The main categories are shown in Table 1 with the approximate fortnightly rate of pension currently payable. Disability pensions are not taxed.

Table 1

Disability compensation pension rates

<i>Type of pension</i>	<i>Rate (Fortnightly)</i>
General Rate (payable in multiples of 10 per cent up to 100 per cent)	\$263 (100 per cent)
Extreme Disablement Adjustment (for veterans over 65 years of age only)	\$395
Intermediate Rate (for veterans unable to work >20 hours per week)	\$480
Special Rate (for veterans who are blind and/or those unable to work >8 hours per week)	\$695

1.16 The amount of disability paid at the General Rate depends on the level of incapacity suffered as a result of war-caused or defence-caused injuries and diseases. Veterans may apply for an increase if they believe their war-caused disability has worsened. There are also additional disability pensions for specific disabilities. For example, a veteran with two legs amputated above the knee would receive an additional \$430 per fortnight.¹⁴

¹⁴ Full details of current pensions and rates are available via factsheets on DVA's website at www.dva.gov.au/pensions.

1.17 War widow(er)'s pension is approximately \$430 per fortnight. In addition, an orphan's pension is available and there is a range of other allowances payable for specific purposes relating to war-caused disabilities. These include, for example, temporary incapacity, loss of earnings, provision of a motor vehicle and vehicle maintenance, recreation transport, provision of attendants and other allowances.

1.18 It is important to appreciate the difference between claims for entitlement and claims for assessment. Entitlement relates to determining whether a veteran's disability was war-caused and fulfils the criteria of the relevant SoP. Assessment cases are those in which a veteran already in receipt of a disability pension may submit a further claim for assessment of a higher level of disability where he/she believes it may have increased, with a view to receiving a higher rate of pension.

1.19 Veterans in need may also be entitled to income support pensions, invalidity service pensions and/or crisis payments in particular extreme circumstances.¹⁵

Audit objective and scope

Objective

1.20 The audit objective was to examine the management by DVA and VRB of the review of decisions by the Repatriation Commission on veterans' claims for disability compensation. In order to achieve this objective, the audit:

- assessed DVA's and VRB's management of the cost, quality and timeliness of reviews; and
- sought to identify opportunities for improving the management of the review of veterans' compensation.

1.21 As well, the ANAO followed up the recommendations of Audit Report No.3, 1996–97, *Compensation Pensions to Veterans and War Widows*. The six recommendations made in Report No.3 focussed on primary decision-making on disability compensation. They are relevant to review arrangements because they were aimed at improving performance indicators, consistency of decision-making, quality assurance and procurement of medical evidence in support of claims.

¹⁵ Further details on these payments are available from the DVA website at www.dva.gov.au.

Scope

1.22 The audit examined the management of the review process from the time of the veteran's submission of an appeal against a primary decision until the notification of a decision by the VRB. The focus of the audit was on:

- management of appeal cases within DVA's Disability Compensation Sub-Program (including within DVA's State Offices);
- management of internal ('s31') reviews within DVA;
- production of reports by DVA under s137 of the *Veterans' Entitlements Act 1986* (VEA) for VRB and the applicant; and
- management of appeal cases by VRB from receipt of s137 reports to publication of decisions.

1.23 The ANAO excluded management by DVA of advocacy services for representation at the AAT and preparation of s37 reports for AAT appeals from the scope of the audit. Advocacy services at the AAT level had recently been the subject of an independent review commissioned by DVA.¹⁶

1.24 The focus of the audit was on the department and the VRB. The Repatriation Commission is constituted as a 'body corporate' under the VEA, but does not have its own funding. The President is the Secretary of the department and the Deputy President and the Commissioner are statutory office-holders. Staffing and resources are provided entirely by the department.

Audit methodology

1.25 The audit methodology included discussions with relevant officers in DVA National and State Offices and VRB's Principal and State Registries, consultation with a range of Ex-Service Organisations, analysis of review processes, procedures and related performance data and review of departmental and VRB files. The ANAO conducted audit fieldwork in Sydney, Melbourne, Adelaide and Brisbane between June and August 2000.

1.26 The audit was conducted in conformance with ANAO Auditing Standards at a cost of \$230 000.

¹⁶ *Review of the Advocacy Function in the Department of Veterans' Affairs*, November 1999.

Previous ANAO reports

1.27 The ANAO has tabled three reports on veterans' compensation since 1992–93. These focussed mainly on primary decision making, although Report No.8 of 1992–93 did examine the appeals system in part. The ANAO reports were:

- Audit Report No.8, 1992–93, *Compensation Pensions to Veterans and War Widows*.
- Audit Report No.15, 1994–95, *Follow-Up of an Efficiency Audit on Compensation Pensions to Veterans and War Widows*.
- Audit Report No.3, 1996–97, *Compensation Pensions to Veterans and War Widows*.

1.28 Key findings and improvements implemented following these reports are summarised at Appendix 1. More detail on recent and current reforms relevant to the Disability Compensation sub-program are at Appendix 2. The ANAO found that all the recommendations of Report No.3 1996–97 have been implemented. A commentary on their implementation is at Appendix 3.

Structure of this report

1.29 This report outlines the costs of veterans' compensation review in Chapter 2. Chapter 3 examines the management of internal review while Chapter 4 examines the management of associated activities by DVA. Chapter 5 examines the management of external review by VRB.

1.30 Case studies are also included between each chapter to illustrate the complexities of review of disability compensation decisions.

Example of a Review Case

This example is included to illustrate the difficulties of incomplete evidence described at paragraph 1.12.

War-Caused Cirrhosis of the Liver

A widow applied to the Repatriation Commission for a widow's pension as a result of the death of her husband which she claimed was war-caused. The Repatriation Commission decided that his death had not been war-caused and no pension was paid. The widow applied to VRB for a review.

The widow's representative proposed a hypothesis that her husband, an Australian mariner, had suffered from stressful service during World War 2 on Merchant Navy ships, during which time he experienced life-threatening situations which, in turn, caused him to drink heavily and become addicted to alcohol. This caused alcoholic liver disease, from which he eventually died.

Although the representative claimed that the mariner had operational service for a substantial period of the war, the Board found that the only periods during which the

mariner could have been considered an 'Australian mariner' as defined in the VEA were two periods of around two and a half months each. The two ships on which the mariner was engaged during these periods were Australian registered and engaged in Australian trade between Australian coastal ports. All the other ships on which the mariner served until the end of World War 2 were British ships and all the engagements were from ports outside Australia.

The evidence relating to these periods was incomplete as the dates of engagement and discharge on one of the certificates of discharge were not completed. In considering the case, the VRB considered the Federal Court case of *Repatriation Commission v Kohn* (1989–90). In that decision, Hill, J had to decide whether veterans, who at all times were stationed in Australia but travelled by ship from one Australian place to another, and were thereby for short periods of time outside Australia, should be treated as having operational service under the VEA. In summary, the Court found that the legislative history supported the Commission's submission that there has been a continuous policy of preferential treatment in pension claims in favour of persons whose service was in a real sense outside Australia. He stated:

'The legislative policy behind the Veterans' Entitlements Act 1986 is that a person who has rendered operational service in the sense defined in s6(1) should more readily be able to obtain a pension than a person who has not rendered such service. It was the intention of the legislature that it was only members of the Armed Forces who, in truth, were on service outside Australia during World War 2 who should receive this preferential treatment as to pensions. It cannot be conceived that Parliament intended that veterans who were at all times stationed in Australia but who travelled from one place in Australia to another and thereby for short periods of time were outside Australia, should be treated in the same way as veterans who fought in a theatre of war, sailors who served continuously on a ship engaged in or likely to become engaged in combat or members of the Air Force engaged in flying missions outside Australia.'

VRB concluded that while the mariner became a heavy drinker as a result of his service as a mariner, given the two short periods of operational service, the Board was unable to conclude that these in particular had any bearing on the development of his drinking habit. This is particularly so as the two relevant periods preceded the time when the applicant met her husband, at which time he was still a controlled and social drinker, according to her own evidence. It appears that it was after 1941 that the mariner's drinking habit accelerated and eventually turned into a problem. The Board could well understand this, given the nature of his service in the Atlantic, Pacific and other oceans of the world on convoys in dangerous waters. Unfortunately for the applicant, the Board considered that the same level of danger would not have applied during the periods he was in Australian coastal waters. It is impossible, given the state of the evidence, for the Board to conclude that any of the service undertaken during these periods had any bearing on the mariner's later substance abuse. The Board also referred to the Statement of Principles concerning cirrhosis of the liver. Various factors can raise a reasonable hypothesis including drinking at least 150kg of alcohol within any 10 year period before the clinical onset of the disease. Unfortunately, in this case, whilst the mariner may have achieved the necessary intake, the Board could not link such intake to the two short periods of operational service. Therefore the Board affirmed the Repatriation Commission decision that the condition from which the mariner died was not war-caused.



Tarakan, Borneo, 1945. Wounded in action on Skyes Feature, a soldier of C Company, 2/48 Infantry Battalion is helped to safety. (AWM Negative Number 089473)

2. Costs of Veterans' Compensation

This Chapter examines the costs of veterans' compensation review as part of the overall cost of administering decisions on disability compensation. It concludes that DVA's increased expenditure on internal review has limited the number of appeals and therefore achieved savings at higher review levels. This Chapter also refers to recent reforms to veterans' compensation, which are described in Appendix 3. The Appendix is included so that readers will be better able to understand the context of the audit findings.

Background

2.1 Following the ANAO's Report No.8 of 1992–93 *Compensation Pensions to Veterans and War Widows*, the Government established an independent Veterans' Compensation Review Committee. The Committee published its report, *A Fair Go*, in March 1994¹⁷. The Government responded to parts of the Committee's report by announcing initiatives in the 1994–95 Budget. The department also made significant reforms to its administrative processes. These changes addressed the majority of the ANAO's recommendations aimed at improving the efficiency, effectiveness and client service of DVA's administration of claim processing.

2.2 ANAO Report No.3 of 1996–97 *Compensation Pensions to Veterans and War Widows* found that DVA had made substantial improvements in its efficiency and in the consistency of decision-making. The report made six recommendations. The department's implementation of these recommendations is summarised at Appendix 3.

2.3 The audit was undertaken during a period of considerable policy and administrative change. These changes included the introduction of proposals for a new Administrative Review Tribunal (ART) and the transfer to DVA of administration of the Military Compensation and Rehabilitation Scheme (MCRS). As well, the Government is still considering its response to the recommendations of the Ministerially-sponsored Review into Military Compensation. Further details of these reforms are at Appendix 2.

¹⁷ *A Fair Go*, Report on Compensation for Veterans and War Widows, March 1994, AGPS.

Impact of the Compensation Claims Processing System (CCPS)

2.4 One of the most significant reforms was the introduction of a computer-assisted decision support system, known as CCPS. The department introduced CCPS progressively in all States from March to September 1994. The first full year of operation of the system was 1995–96. CCPS enabled DVA to substantially improve its performance in finalising primary claims. This improvement is shown in Figures 6 and 7. Figure 6 also shows that this occurred in an environment of increasing intake in claims for compensation. Following introduction of the new system, DVA was, for the first time, able to finalise more claims than the number of claims lodged, while reducing the number of outstanding claims at year end.

Figure 6
Intake, finalisation and outstanding primary claims

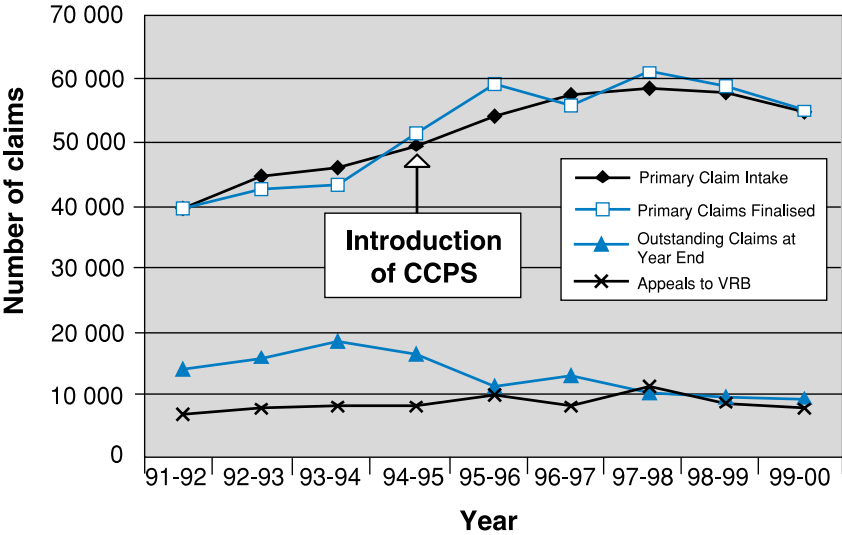
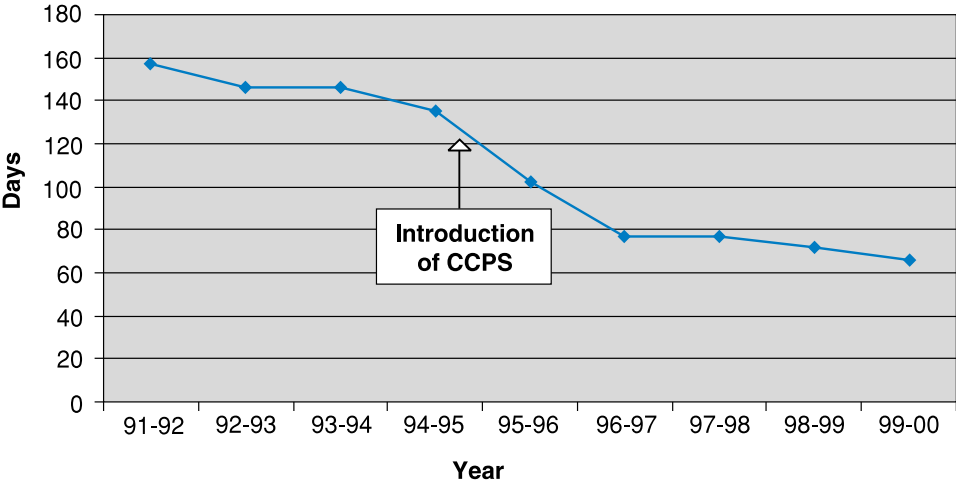


Figure 7
Average time taken to process primary claims (days)



2.5 It should be noted that the outstanding claims at the end of the year, as shown in Figure 6, are correlated to the average time taken to finalise claims. At any particular time, a percentage of claims will be being processed by the department. This is known in the department as 'workholding'. In general, the longer the time taken to process the claims, the larger the workholding at any particular time. However, a better measure of the true level of outstanding claims may be achieved by measuring the average age of claims held at year end. The ANAO suggests that comparison of the average age of claims held with the average time taken to process finalised claims would allow a better assessment of the actual level of outstanding claims.

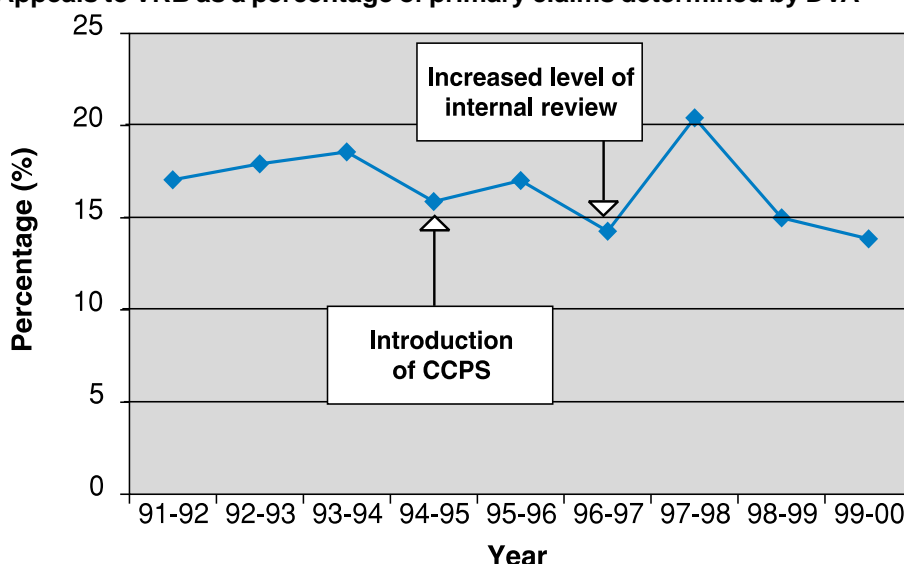
2.6 In its response to this report, DVA noted the ANAO's suggestion to compare Performance Reporting System and Balanced Scorecard reporting, in fact, report both figures. However, DVA will more widely report both figures.

2.7 DVA's statement that it has improved the quality of claims processing in relation to more equitable treatment of applicants is generally supported by data on the level of appeals as a percentage of primary claims determined. Figure 8 shows that, with the exception of a spike in 1997-98¹⁸, the proportion of appeals to VRB as a percentage of claims determined by DVA has declined by almost 20 per cent since 1993-94.

¹⁸ DVA advised that this temporary increase in the level of appeals may have been the result of renewed efforts by the department to communicate to the Ex-Service Organisation community the need for veterans to protect their right of appeal to external review. Previously, veterans may have only lodged a request for an internal review. However, in order to protect their right of appeal to VRB and AAT, DVA suggested that veterans should lodge an appeal with VRB at the same time as requesting internal review under s31.

Figure 8

Appeals to VRB as a percentage of primary claims determined by DVA¹⁹



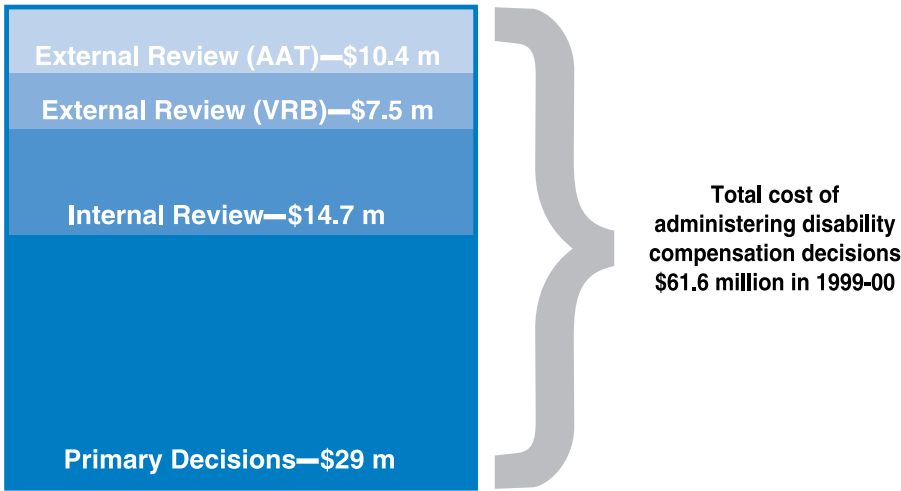
Assessment of the efficiency of the decision-making system

2.8 An effective and efficient decision-making system should ensure that, as far as possible, primary decisions are made correctly, in accordance with relevant criteria, in a timely fashion and are communicated clearly to clients. This would be reflected by satisfied clients and therefore a low level of appeal against primary decisions.

2.9 The efficiency of the decision-making system could thus be assessed by the ratio of the cost of review to the cost of primary decision-making. The costs of administering disability compensation decisions in 1999–2000 are shown in Figure 9.

¹⁹ Primary claims include both entitlement and assessment matters decided at the primary level. ANAO analysis of DVA and VRB data does not include withdrawals as a result of internal review.

Figure 9
Costs of administering disability compensation decisions 1999–2000



2.10 The cost of review per case could, however, be expected to be quite high on the assumption that only the most complex cases are not able to be resolved at lower levels. The cost of review is a necessary part of the total cost of administering decisions but, in an ideal system, the aggregate costs of review should form a small proportion of those costs.

2.11 This is particularly important in the case of veterans' disability compensation given the scale of the outlays involved. In 1999–2000 the department provided \$2.1 billion to a total of 327 695 payees. These payees include veterans, war widows, orphans and dependants. As well, certain allowances are payable to some eligible applicants. However, the particular nature of the veterans' compensation system must be recognised. This includes the beneficial nature of the legislation and the lack of any barriers to appeals.

2.12 The nature of the evidence to be considered by the Repatriation Commission in making decisions on claims at the primary level is also an important factor. This evidence includes service personnel and medical records which are likely to be old, incomplete or which may, due to the exigencies of the operational conditions under which they might have been created, not be accurate. Other forms of evidence to be considered include eyewitness accounts by former service colleagues relating to the nature or circumstances of an injury which may have contributed to the medical condition being claimed. It should be noted that the evidence can be 'hearsay' and still be acceptable because the rules of evidence do not apply in the same way as they do in a court of law. Often the only evidence is a statement by the applicant. Delegates must determine the credibility of this evidence on the basis of known historical facts and the consistency of statements made over the years.

Previous audit findings on costs

2.13 The ANAO estimated the costs of primary decision-making and costs of appeals and review in Report No.8 of 1992–93. These estimates are compared in Table 2 with the costs estimated during this audit.

Table 2

Comparison of costs of primary decision-making and costs of appeals

<i>Administrative Costs</i>	<i>1991–92</i>	<i>1999–2000</i>	<i>Change</i>
Number of primary claims	39 267	54 526	+ 39 %
DVA Primary Claim Processing	\$39.0m	\$29.0m	- 26 %
DVA Internal Review and Appeals Processing	\$13.2m	\$14.7m ¹	+ 11 %
VRB	\$8.2m	\$7.5m	- 9 %
AAT (Compensation Appeals Only and associated Legal Aid)	\$10.6m	\$10.4m ²	- 2 %
Total Cost of Administrative Review	\$32.0m	\$32.6m	+ 2 %
Total Cost of Program Administration	\$71.0m	\$61.6m	- 13 %
Cost of Administrative Review as a percentage of Total Program Administration Costs	45%	53%	+ 18 %

Note 1: DVA advised that the \$14.7 million for internal review includes DVA's costs of supporting the external review processes (including preparation of reports on the evidence for VRB and AAT.)

Note 2: DVA advised that the figure of \$10.4 million for the cost of external review is an estimate only because legal aid in the veterans' jurisdiction is not capped.

2.14 It must be emphasised that the figures shown in Table 2 are estimates. DVA advised that the historical data should be treated with some caution due to significant improvements in the attribution of costs over recent years. Nevertheless, the table shows a small increase in the overall cost of administrative review and a much larger decrease in the total cost of primary decision-making. This occurred during a period in which the intake of primary claims increased by almost 50 per cent. The ANAO's analysis shows that DVA reduced the average cost of primary decisions from \$993 per case in 1991–92²⁰ to approximately \$530 in 1999–2000. However, as noted above, it must be emphasised that the basis of the earlier figures were estimates and that improvements in cost attribution²¹ within DVA since then mean that these comparisons with data from earlier years should be treated with caution.

²⁰ This estimate is based on the ANAO's estimate made in Report No.8 1992-93 of the costs of primary decision making of \$32.8 million adjusted to \$39 million in constant 99-2000 dollars. This sum was the cost of processing 39 267 claims in 1992-93.

²¹ For 1991-92 cost information, it is not clear whether the department included all salary costs such as superannuation. Comparisons should therefore be treated cautiously.

2.15 The ratio of costs of review to costs of primary decision-making has also increased by approximately 18 per cent over the period shown above. These trends appear, at first sight, to indicate some reduction in the efficiency in the overall decision-making system for disability compensation. However, the small increase (\$1.5 million) in the cost of internal review as a result of wider use of internal review by the department is more than offset by the much larger decrease (\$9.5 million) in the total cost of administering decisions.

2.16 It should be recognised that the beneficial nature of the appeals system, as described in previous external reports²², and the lack of barriers to appeal lead to a relatively high number of appeals and therefore to cost. Veterans consider that they have a good prospect of achieving financial gain at no cost to themselves. The higher costs of internal review should also be assessed in the light of the much higher number of internal reviews undertaken under s31 of the VEA.

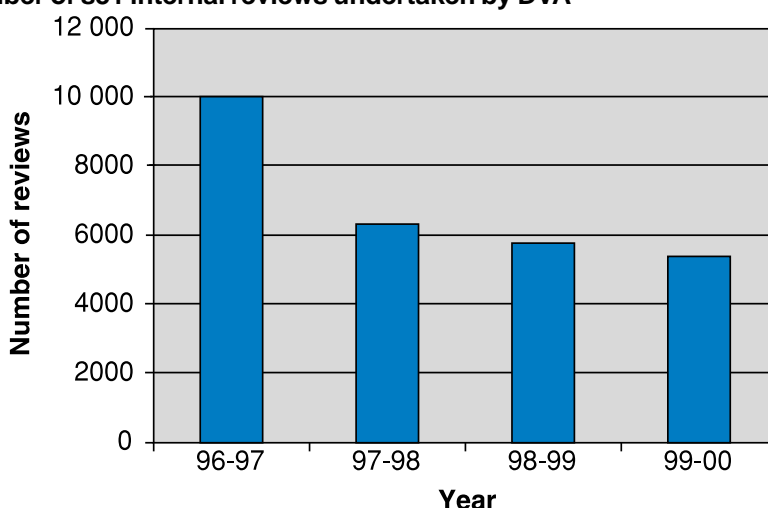
2.17 Figure 10 shows the available data on s31 internal review (DVA did not collect data on s31 reviews prior to 1996–97). The high level of reviews in 1996–97 reflects a one-off internal review project, which DVA undertook with the aim of significantly reducing the backlog of applications to VRB. This exercise involved review of all applications to VRB for possible action and was considered very successful by the department. Prior to 1996–97, s31 internal reviews were conducted infrequently. Although the number of internal reviews that the department completed in subsequent years was about half of the 1996–97 level, DVA advised that this lower level reflects what should be considered a more normal level of internal review.²³

²² Such as *A Fair Go*, Report on Compensation for Veterans and War Widows, Professor Peter Baume, March 1994 and ANAO Report No.8 1992-93 *Compensation Pensions to Veterans and War Widows*.

²³ Accurate data on the number of s31 reviews undertaken prior to 1996-97 is not available. DVA advised that due to differences in the way s31 reviews have been recorded since 1998, the results should be viewed with some caution.

Figure 10

Number of s31 internal reviews undertaken by DVA



2.18 Because of the absence of longer-term data, no firm conclusions can be drawn from this analysis. However, the ANAO considers that it is important to view the whole decision-making system rather than each element in isolation.

Impact of CCPS on primary decision-making costs

2.19 As noted above, the ANAO found that the total costs of review have increased over time, while the costs of primary decision-making have fallen. There is a relationship between the level of resourcing applied to the primary level of decision-making and the level of appeals, and hence the costs of the review mechanisms. However, it must be emphasised that the overall cost of administering disability compensation decisions has fallen by much more than the increase in the costs of administrative review of those decisions. The ANAO also found that detailed analysis of the costs of internal review is not possible because DVA is not yet able to disaggregate the costs of all its review activities²⁴. The ANAO suggests that disaggregation of the costs of s31 reviews, and preparation of s137 and s37 reports, could, in conjunction with consistent reporting of the number of reviews recently introduced by the department, provide better management information.

2.20 DVA undertook an evaluation of the implementation of its computer-based decision-making system (CCPS) in 1996. The report on this evaluation noted that the average time taken to process primary

²⁴ These include s31 reviews and preparation of s137 and s37 reports.

level decisions reduced from 157 days in 1991–92 to 102 days in 1995–96²⁵. The cost/benefit analysis undertaken by this evaluation showed a reduction in average cost per case ranging from \$868 to \$541, but noted that while there were clear cost savings, the estimates of savings should be treated with some caution.²⁶

Availability of comparative data

2.21 In considering the costs of reviews, it should be noted that there is no readily-available data which would enable a reasonable comparison of the costs of review with the costs of primary decision-making across other jurisdictions. Cost data is available from other tribunals such as the Social Security Appeals Tribunal (SSAT), Migration Review Tribunal (MRT) and Refugee Review Tribunal (RRT). However, to enable a comparison of relative efficiencies it would be necessary to collect data on the costs of each type of primary decision. Given the range of different decisions which is reviewed by those bodies and the varying degrees of complexity of those decisions, the ANAO considered that the expense of obtaining such data to make a reasonable comparison would be prohibitive. Even if the data were collected, the different nature of the decisions under review would mean that conclusions drawn from any analysis of it would need to be treated with considerable caution. Therefore, the ANAO did not attempt to collect comparative data on the costs of primary decision-making in relation to the costs of review.

Drivers of increased costs

2.22 The ANAO also found that, among the many factors which influence costs, there is a general view among DVA, VRB and ESO stakeholders that the increase in costs of review is likely to have occurred as a result of the structure of the appeals system. When appealing to the AAT, the availability of legal aid and up to \$2500 in disbursements for such items as medical examinations provide the greatest incentives for obtaining new evidence at the highest and most expensive level of review. As a result, there is a tendency for some applicants to see VRB reviews as an intermediate step to be passed through before resolution of their case at the AAT, which is perceived to provide a greater chance of a decision favouring the veteran.

²⁵ The average time taken to process primary claims has since reduced further to around 73 days. Refer to Figure 7.

²⁶ DVA was not able to provide any more recent data on savings resulting from the introduction of CCPS.

2.23 Nevertheless, the ANAO concluded that there is also a need to continue to ensure the best possible investigation at the primary level within available resources and to encourage earlier settlement of appeals. This could be facilitated through provision of greater incentives to obtain better evidence at an earlier stage of the process, preferably at the primary level but at a minimum at the internal review level. The ANAO envisages that provision of incentives could be achieved through consideration of a number of options, including, for example:

- making resources available earlier for the procurement of medical and other evidence (that is, at the primary level). This could include, for example, providing funds on a risk-managed basis for specialist medical examinations; and/or
- annual payments to ESOs and Veteran Service Centres based on a performance formula on the level of their claim activity and success rate ratios, with disincentives for VRB applications that raise new evidence not put forward at the primary level.

2.24 These examples are illustrative of approaches that could usefully be pursued to limit the level of review activity without increasing the resource demands of administering disability compensation decisions.

Overall conclusion

2.25 The ANAO concluded that, because the department is not yet able to disaggregate the costs of its internal reviews from its other external review-related activities, such as preparation of reports on evidence for VRB and for the AAT²⁷, more accurate cost information on internal review would allow the department to improve its assessment of the impact of its internal review activities on the level of appeals. This would also allow a better assessment of the efficiency of the administration of compensation decisions as a whole.

2.26 The ANAO also concluded that internal review is a key means of reducing the level of applications for external review and thus the cost of administering decisions overall. There are, however, as yet no benchmarks which would allow an assessment of the extent to which DVA's internal review activity is effective in reducing the costs of external review or the efficiency of the administration of decision as a whole.

²⁷ Reports on evidence considered at the primary claim assessment level are prepared under s137 of the VEA and known as 's137 reports'. Reports on evidence prepared for the Administrative Appeals Tribunal under s37 of the AAT Act are known as 's37 reports'.

2.27 While the total costs of internal review have increased by over 10 per cent in real terms since 1991–92, the department has reduced the total costs of primary decision-making by more than 25 per cent. The larger number of internal reviews has, however, contributed to reducing the level of appeals to VRB as a percentage of all primary decisions. Subject to the limitations of the early comparative data, indications are that the department's increased level of internal review activity, undertaken at a relatively modest cost, has prevented increases in external review at VRB and AAT by resolving more claims at the lower and cheaper level of internal review.

2.28 As well, the ANAO concluded that there is a need to ensure the best possible investigation at the primary level within available resources and to encourage earlier settlement of appeals. This could be facilitated through provision of greater incentives to obtain better evidence at an earlier stage of the process, preferably at the primary level but at a minimum at the internal review level. As noted above, the ANAO envisages that provision of incentives could be achieved by making the resources available for the procurement of medical and other evidence earlier (that is, at the primary level) on a risk-managed basis. This could include, for example, providing funds for specialist medical examinations and streamlining arrangements to enable more timely provision of relevant service records.

Recommendation No.1

2.29 The ANAO recommends that, in order to minimise the overall cost of review, DVA and VRB should:

- minimise the level of appeals by continuing to improve the quality of investigation and reasons for decision at the primary claims assessment level; and
- develop suitable strategies to encourage settlement of an appeal at the earliest possible stage. These strategies could include making available appropriate allowances or incentives which encourage applicants to obtain adequate medical or other evidence as early as possible in the claims and/or review process.

DVA response

2.30 Agreed. DVA will examine strategies to encourage earlier provision of evidence in the appeal process. Any such measures would need to be cost effective and, as noted by the ANAO, the introduction of any new monetary incentives would require a Government policy decision and funding.

VRB response

2.31 Agreed. The VRB accepts the need to encourage settlement of appeals at the earliest possible stage and will work cooperatively with stakeholders to achieve this result. The VRB observes that the development of new strategies would necessitate a holistic consideration of the decision/review process and its necessary support services (such as representation). Careful attention would have to be paid to the danger of lengthening an already drawn out process.

3. Management of Internal Reviews by the Department of Veterans' Affairs

This Chapter examines the department's management of internal reviews and preparation of reports for the purposes of external review. The ANAO concludes that, although internal review is being managed well overall, there is still scope for improvement in a number of areas.

Introduction

3.1 DVA plays a key role in the appeals system through two core activities. These are internal review of primary compensation decisions (under s31 of the VEA) and preparing, for the purposes of external review, reports on relevant evidence for provision to applicants and the VRB.²⁸ S137 of the VEA requires that the department provides these reports (known as 's137' reports) within 42 days of the veteran submitting an appeal. The focus of the audit was on these core elements of the review process. These are examined in this Chapter.

3.2 DVA also plays an important role in providing support and training to representatives of Ex-Service Organisations to help veterans prepare appeal cases.²⁹ With the exception of a small number of full time ESO staff, these representatives provide their services on a voluntary basis. However, although these services do not fall within the scope of the audit, it is necessary to refer to them in the discussions relating to the timeliness of the overall review process.

3.3 As well, the department's case management of appeals, quality assurance and performance monitoring are all key elements in the administration of reviews of veterans' compensation. These are discussed in Chapter 4.

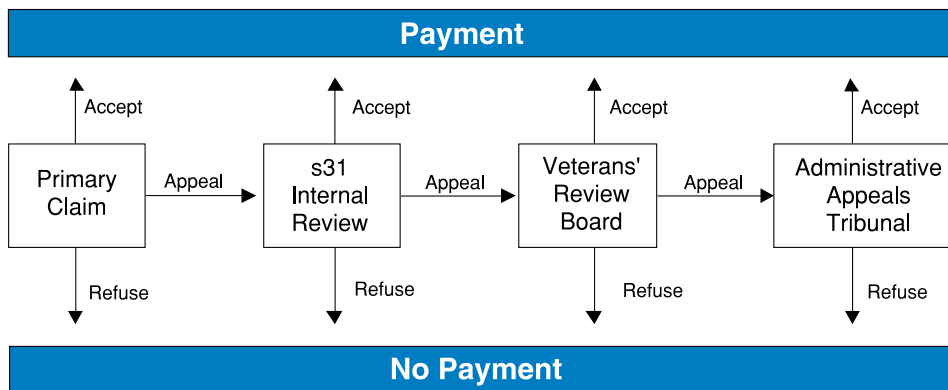
²⁸ The department is also responsible for paying entitlements.

²⁹ ESO representatives also assist applicants to prepare their initial claims for disability compensation.

3.4 An overview of the appeals system is shown as follows:

Figure 11

Overview of the appeals system



Internal review

3.5 Section 31 (s31) of the VEA provides for DVA to conduct an internal review of its primary decisions on disability compensation claims by veterans. Consistent with long-established procedures of administrative review, s31, as with the higher levels of review, allows the applicant to introduce new evidence and for DVA to amend the primary decision on the basis of all the evidence then available.

3.6 In response to the backlog of outstanding appeals to VRB and in line with the recommendations of the Baume Report³⁰, published in 1994, the Repatriation Commission revised its policy to extend the use of s31 review. Subsequently, in 1995 the department introduced new procedures in order to ensure a more active review process of all appeals to VRB. These were intended to enable the department to identify missing or weak evidence, allow the claimant to provide additional evidence and thus enable DVA to intervene and amend primary decisions where appropriate.

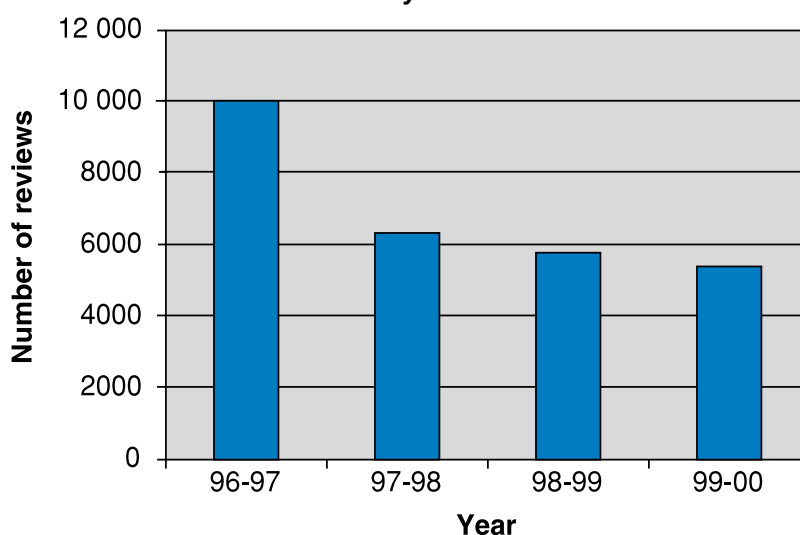
3.7 DVA subsequently refined this new procedure to include screening of all applications upon receipt for possible intervention by Review Officers under s31 and before commencement of a s137 report. As well, the policy allowed for a departmental Review Officer to initiate further contact with veterans/representatives where they have made a specific request for s31 review.

³⁰ *A Fair Go*, Report on Compensation for Veterans and War Widows, Professor Peter Baume, March 1994. The Report found that, in practice, many dissatisfied claimants appealed to VRB without seeking a departmental review under s31 and without presenting additional evidence. Often, then it was too late for DVA to conduct an internal review before the VRB hearing.

3.8 Figure 12 shows the number of s31 reviews since the introduction of the new procedure. Although the number of reviews appears to have declined, it is important to note that the introduction of the new procedure was a major initiative. Prior to 1996–97, the department only rarely conducted s31 reviews and did not collect data which would enable a comparison with activity post 1996–97³¹.

Figure 12

Number of s31 reviews undertaken by DVA³²



3.9 Screening of appeals involves an examination of relevant papers (that is, the primary decision, evidence on file and any evidence submitted with the VRB application). DVA does not undertake detailed investigation unless the primary decision appears to be inadequately based and more investigation should have been undertaken. Where the department believes that a primary decision is clearly incorrect or inadequate, a Review Officer undertakes a more detailed review under s31 of the VEA. The Review Officer also provides feedback to the original decision-maker. DVA advised that incorrect primary decisions represent less than five per cent of the cases which it screens. Policy guidelines note that contact with the veteran or the veteran's representative is not essential in all review cases, but that in some circumstances it may be appropriate for the Review Officer to obtain a particular piece of evidence which may then allow DVA to intervene under s31 and amend the primary decision as necessary.

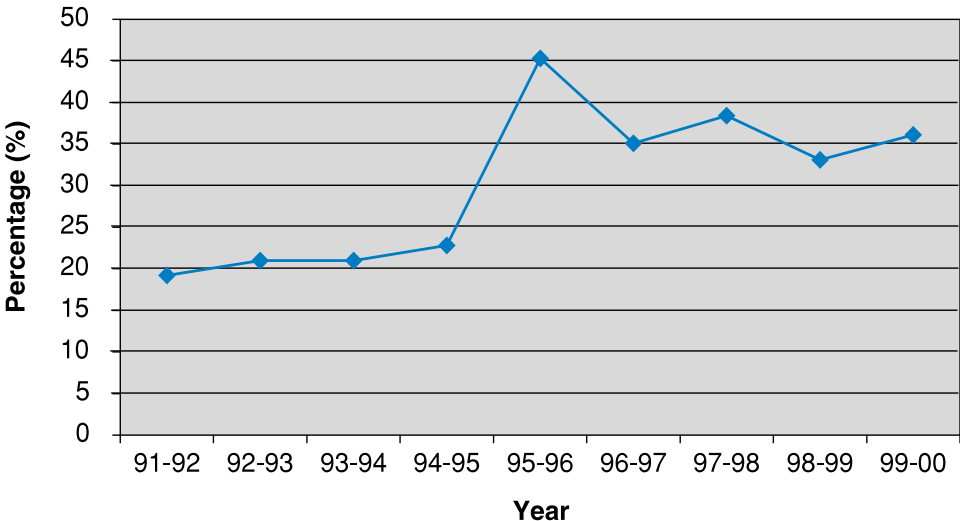
³¹ Data was not collected on s31 reviews prior to this so comparison with previous years was not possible.

³² DVA data.

3.10 The ANAO found that the introduction of the new procedure described at paragraph 3.9 had some initial difficulties, but that the new procedure is now well accepted and understood by most ESO representatives. As well as screening all applications, the department also undertakes internal review in response to specific requests for such review from some applicants.

3.11 The introduction of a wider use of internal review in 1995–96 had a significant effect on the level of withdrawal of appeals, as shown in Figure 13. DVA’s application of its power under s31 of the VEA to amend its primary decision and thereby satisfy the applicant led to a sharp increase in the number of appeals to VRB being withdrawn in 1995–96. After the peak in that year, the level of withdrawals in settled to an approximately steady state. This percentage of appeals withdrawn in recent years is almost twice the level prior to the department’s wider use of internal review. The ANAO concludes that the department’s policy has been effective in reducing the level of appeal to VRB and therefore contributing to reducing the cost of external review.

Figure 13
Percentage of appeals withdrawn by applicants



Quality of internal ('s31') review

3.12 The ANAO found that, with the exception of New South Wales, ESOs were generally satisfied with the department’s conduct of internal reviews. In New South Wales, the ESO representatives consulted by the ANAO were dissatisfied with the department’s approach to internal review. These ESOs perceived that DVA did not undertake any detailed review or make enough effort to secure additional evidence. Both DVA and ESOs subsequently advised that this dissatisfaction had arisen as a

result of a misunderstanding of the process at the local level, which had then been resolved through discussion at a joint compensation claims workshop.

3.13 Although the department addressed the ESOs' dissatisfaction with the process during the course of the audit, this discussion illustrates the variation in some practices which occurs between State Offices. It highlights the need for the department to assure consistent quality of review practice in a devolved environment in which State Deputy Commissioners are responsible for the delivery of outputs and outcomes.

3.14 Quality assurance is an important issue at both the primary and internal review levels. However, during the audit, the ANAO found that the department's Quality Assurance (QA) program involved only limited checks of internal s31 reviews. These occur only because the method of sample selection of cases for checking may include a very small number of internal reviews (one or two) in the sample of predominantly primary claims which State Offices test each month.³³

3.15 The ANAO found that some State Offices undertake additional QA of s31 reviews, but the extent of this varies between States. As well, DVA may miss opportunities to amend primary decisions at s31 internal review because departmental Review Officers do not always provide specific guidance to representatives on what evidence might be required to justify amendment of a decision. Although there is formal guidance in the form of Statements of Principles for specific conditions, the varying level of knowledge and experience of ESO representatives mean that additional guidance from the local Review Officer on the nature of the evidence required could help ensure that more claims are resolved at the internal review level. DVA advised that it is a requirement of the Repatriation Commission's Section 31 review protocol for review officers, in their discussions with ESO representatives and in any decisions not to intervene, to point out the nature of the evidence that would be necessary for the claim to succeed. The standard letters for s31 review non-interventions provide for this information to be included.

3.16 Because there is a lack of quality assurance at the s31 review level, the ANAO concluded that DVA is not able to provide assurance that reviews are being conducted consistently across States in line with the Departmental protocol. During the audit, DVA advised that its recently-revised quality assurance program would be extended to embrace the s31 review process more comprehensively.

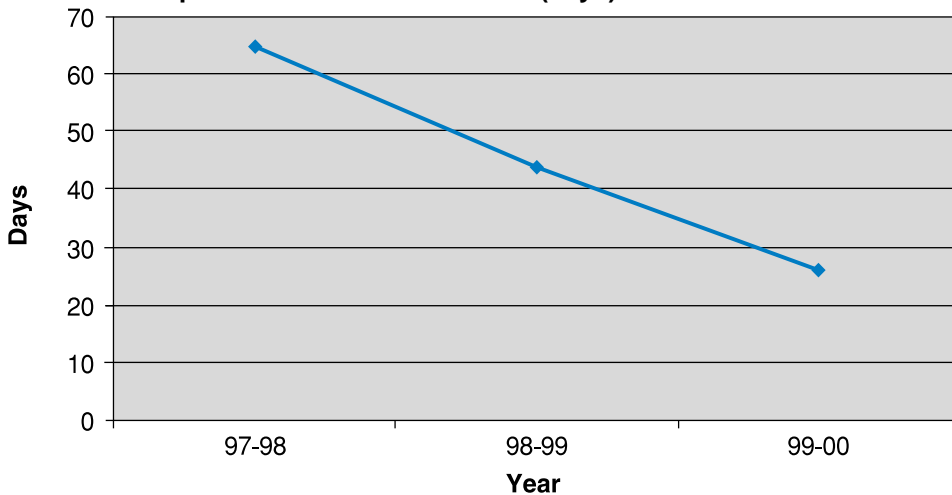
³³ The ANAO was advised that this might amount to one or two s31 reviews in each monthly QA sample of approximately 25 cases.

Timeliness

3.17 In 1999–2000, DVA reduced the timeliness target for processing of a s31 internal review from 50 days to 30 days. Figure 14 shows the improvements in average time taken to process internal reviews. Due to changes in the way the department recorded s31 reviews, DVA advised that these results should be treated with some caution. Nevertheless, the data broadly indicates a substantial improvement in performance. The ANAO concludes that this improvement in performance indicates that management attention to timeliness has delivered results. However, DVA does not have the data that would enable an assessment of the quality of internal reviews.

Figure 14

Time taken to process s31 internal reviews (days)



ANAO conclusion

3.18 The ANAO concluded that, because the department undertakes limited quality assurance checks of its internal review decisions, DVA could ensure consistent approaches to internal review, in the environment in which responsibility for resourcing and operational management is devolved to State Offices, through wider application of quality assurance to internal reviews. Nevertheless, the department's internal review appears to be generally working to the satisfaction of its clients. The department advised during the audit that work to include internal reviews in the quality assurance program has commenced.

3.19 The differing practices identified during the audit also illustrate the tensions that inevitably occur in an environment in which

responsibility for operational management of a process is devolved to State Offices. The conflict arises from:

- the need to allow State managers sufficient flexibility in resource allocation and operational management to meet locally identified priorities and risks, particularly in an environment of continued resource constraints; and
- the need for the department to ensure, on a national basis, consistency in the quality of service standards.

Preparation of s137 reports

3.20 If, after internal review, the Review Officer³⁴ decides not to amend a primary decision under s31, the department is then required to prepare a report in accordance with s137 of the VEA on the evidence used to make the primary decision. This report, known as the 's137 report', includes copies of all the relevant evidence considered by the primary decision-maker and should include reasons for non-intervention under s31. The objective of this report is to provide all parties to the appeal (that is, the applicant, the representative and the VRB members who hear the case) with a common understanding of the available evidence.

3.21 Preparation of these reports is time consuming because it involves identifying and photocopying the large numbers of documents which the Claims Assessor has considered when making the primary decision. Some of these documents may be difficult to reproduce legibly because of their age, while others may have pages missing.

3.22 The department then forwards the veteran's application to the VRB with the s137 report. If DVA decides to amend the decision, and the decision is favourable to the applicant, the applicant may still request that the appeal be heard by VRB. However, in most cases, veterans agree to DVA's request that the applicant withdraw the application from VRB.

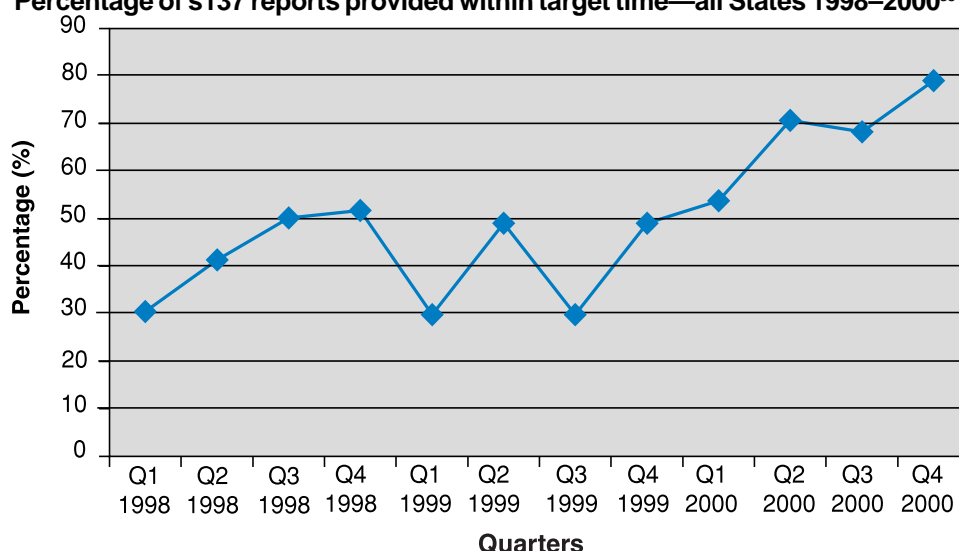
Timeliness

3.23 S137 of the VEA requires that DVA should provide an applicant with a report on the evidence under its control within 42 days of receiving the application.

³⁴ Although the Review Officer is an officer of the department, they undertake internal review under delegation from the Repatriation Commission.

Figure 15

Percentage of s137 reports provided within target time—all States 1998–2000³⁵



3.24 Figure 15 shows the national average percentage of s137 reports provided within the target timeframe of 42 days. DVA has clearly improved the timeliness of s137 reports since 1998–99. The ANAO acknowledges that DVA has identified problems with the timeliness of these reports and taken steps to improve it by increasing management attention to the issue, both at National and State Office levels. In particular, National Office conducted an internal review of s137 reporting in late 1999. Implementation of the recommendations of that review has clearly had some effect in improving timeliness, although the ANAO notes that State Office responses to the report’s recommendations were variable. Nevertheless, the target timeframe set out in the VEA for the department to provide all its s137 reports to the VRB within 42 days, is still not yet being met.

Quality

3.25 As well as not meeting the timeliness targets, VRB officers and representatives of a range of Ex-Service Organisations commented that the quality of the department’s s137 reports has also caused difficulties. VRB agreed that the poor quality of s137 reports means that its staff spend considerable time checking the completeness and accuracy of reports provided. Poor quality also means that ESO representatives³⁶,

³⁵ DVA performance information for KPI 1299.04.

³⁶ Representatives are generally members of Ex-Service Organisations who, with the exception of a small number of paid ESO staff, provide their services on a voluntary basis to assist veterans with both the preparation of the primary claim for disability compensation and, where necessary, preparation of an appeal case. DVA, in partnership with ESOs, provides relevant training to representatives through its Training and Information Program.

who help applicants to prepare their cases, often do not trust the completeness of s137 reports, and therefore many representatives automatically submit a Freedom of Information request to see the contents of veterans' files. These issues are discussed below.

3.26 Data collected during the audit shows that VRB staff spend as much time checking and correcting s137 reports as they do processing them. VRB checks show a range of errors. The more common errors include:

- service documents missing;
- medical reports missing;
- lifestyle questionnaire missing; and/or
- pages illegible/upside down.

3.27 From data collected by the VRB, the ANAO found that, in one four-week period, VRB Case Officers nationally spent more time checking the completeness of s137 reports and following up errors with DVA than they did processing the relevant documentation. There are no formal arrangements for providing feedback on the results of this work to DVA, although in some States this occurs on an informal basis. The ANAO therefore concluded that the s137 process as a whole is not being managed efficiently.

3.28 The ANAO also found that DVA has no formal arrangements for quality assurance of s137 reports. DVA's formal quality assurance procedures are applied only to primary decisions and s31 review decisions³⁷, although the ANAO found that one State Office undertakes some informal quality checks on s137 reports. During the audit DVA advised that quality assurance procedures were being revised to include s137 reporting.

3.29 The ANAO also found that while only one State Office had developed its own checklist of what documents should be included in s137 reports as a minimum, VRB guidelines (available on DVA's intranet) include detailed guidance on what should be in a s137 report and a checklist. It would seem sensible for this material to be used by DVA s137 report writers as well. Common guidance on and training in procedures for the preparation of s137 reports would help improve their quality.

³⁷ Compensation Claims Processing National Quality Reporting Procedures, October 1999.

3.30 The ANAO also found that one of the key difficulties in preparing these reports is for the report writer, who is a relatively junior officer, to identify the relevant evidence used by the primary decision-maker to come to a decision. There is little formal guidance and training for report writers, who may therefore lack the knowledge and experience required to prepare a high quality report. A veteran's file may run to several volumes and contain a considerable quantity of documents ranging from service medical records to recent specialist medical reports. DVA's 1999 Review of s37/s137 Reporting recommended that primary decision-makers should clearly identify ('tag') the evidence used to make the decision. However, the ANAO found that there were wide variations in DVA State Office responses to this recommendation. Some State Office managers advised the ANAO that this process would be too time-consuming.

3.31 However, given the improvements in timeliness of primary decision-making and the fact that the current average time of 66 days taken to process claims is well below the target of 75 days, the ANAO considers that, for claims that are not accepted, there is scope for claims assessors to better document the reasons for decision and the evidence used while still achieving their timeliness targets. This would benefit the review process by enabling more efficient internal s31 review and preparation of s137 reports. During the audit, the department advised that it has started a project to improve reasons for decision and that DVA expects to make changes to the reasons for decision in mid-2001.

3.32 The ANAO suggests that DVA should, for rejected claims only, determine the costs and benefits of identifying relevant information used in making the primary decision, with a view to adopting a risk management approach to identify relevant documents at the primary decision level. This would improve the efficiency and effectiveness of s137 preparation because s31 Review Officers would not have to 'second guess' what evidence the primary decision maker used to make a decision.

3.33 In relation to timeliness of s137 reporting, the ANAO noted that much of the time spent in report preparation is taken up in photocopying large quantities of records, some of which may be very old and difficult to reproduce. DVA has discussed use of scanning technology to assist this process, but so far has not undertaken any detailed consideration, evaluation or testing of options. Advances in computerised scanning technologies may help improve the timeliness of the report preparation process. Although this may be expensive to implement, there is likely to be a significant benefit in the reproduction and dissemination of records to the relevant parties. It is suggested that these options could be investigated and trialed.

ANAO conclusion

3.34 The ANAO found that the department has not yet achieved the timeliness targets set out in the VEA for its reports on evidence to the VRB and applicants for the purposes of the VRB's external review³⁸. The department has made significant progress in improving the quality and timeliness of these reports over the last two years, but further improvements in timeliness and quality could be achieved through:

- identification by the departmental primary decision-maker (as a delegate of the Repatriation Commission) of relevant evidence considered in making the original decision;
- formal guidance to departmental staff on the requirements for its reporting, reflecting VRB's guidance to its case officers; and
- quality assurance checks of these reports.

3.35 As well, investigation of the options available from use of scanning technologies may enable more efficient reproduction and dissemination of records to all parties.

Recommendation No.2

3.36 The ANAO recommends that the department should:

- ensure that, in cases where compensation is not awarded, claims assessors identify the evidence which they considered in making the primary decision in order to facilitate preparation of s137 reports on the evidence;
- ensure that formal guidance and training for DVA staff on the preparation of reports on the evidence reflects VRB documentation checklists; and
- investigate options for using scanning technology to minimise the resources currently allocated to photocopying multiple copies of reports on the evidence.

DVA response

3.37 **Agreed.**³⁹

³⁸ Reports on evidence considered in making the primary decision are prepared in accordance with s137 of the VEA. They are generally known as 's137 reports'.

³⁹ DVA did not provide further detailed comments in their response to this recommendation.

4. Management by the Department of Veterans' Affairs of Activities in Support of Internal and External Review

This Chapter identifies issues associated with the department's management of the processes which support the conduct of internal and external review.

Introduction

4.1 As well as conducting internal reviews under s31 of the VEA and preparing reports of evidence under s137 for the applicant and VRB, DVA is also responsible for a number of activities which support the conduct of internal and external review. The activities that are described here include:

- support for advocacy services provided by Ex-Service Organisations;
- case management; and
- quality assurance.

4.2 DVA's performance information is also examined.

Support for advocacy services provided by Ex-Service Organisations

4.3 Representatives, drawn from the various Ex-Service Organisations, play an essential part in the disability compensation system by helping veterans to prepare their compensation claims and, where necessary, helping veterans prepare their appeals, and representing veterans before the VRB and AAT as required.

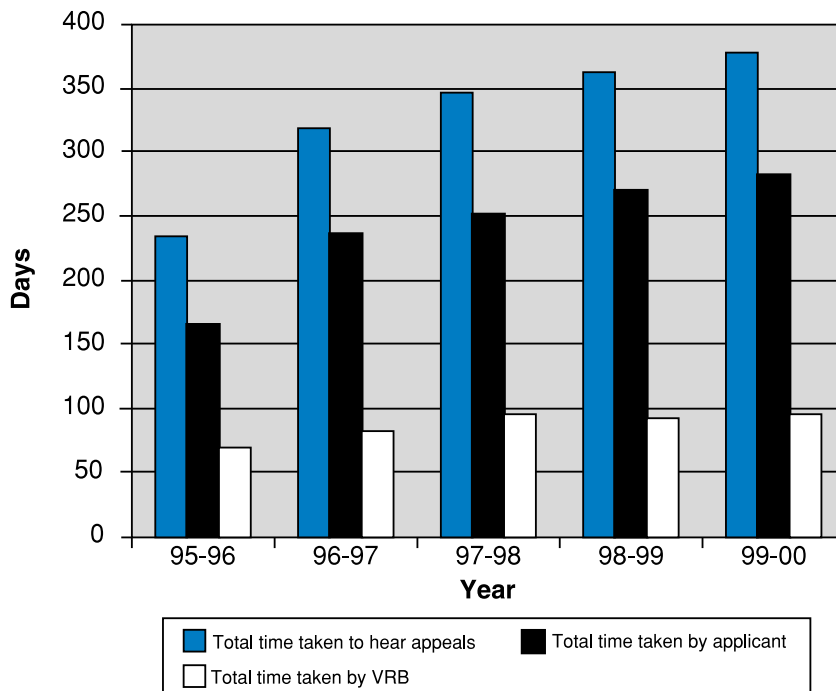
4.4 One of the key issues over recent years has been the increasing length of time taken to finalise cases at VRB level. Figure 16 shows that the time taken to finalise cases at VRB has increased by over 60 per cent over the last five years to an average of over 12 months in 1999–2000.

4.5 The major cause of this is the increase in the length of time required by veterans and/or representatives to prepare their cases. VRB data shows that, on average, preparation of the case by the applicant and/or representative takes up around 75 per cent of the total time taken to

hear a case at VRB. As also shown in Figure 16, the VRB component of this has increased by almost 40 per cent since 1995–96 while the veteran component of this has increased by over 70 per cent over the same period.

Figure 16

Average time taken to finalise appeals at VRB (days)



4.6 Delays result from two factors:

- causes outside a representative's control, including delays in obtaining specialist medical appointments, particularly in non-metropolitan areas, and receiving the resulting reports and/or the time required to obtain other forms of evidence; and
- causes within a representative's control, including the demands of high caseloads on the relatively small number of representatives who have been trained to the level at which they can assist with appeals.

4.7 With regard to improving the timeliness of provision of medical evidence, DVA advised that it has made significant efforts to communicate with relevant professional medical bodies to explain the requirements and streamline the process. DVA State Offices also assist in following up medical reports where possible.

4.8 Obtaining other forms of evidence can also be time-consuming for representatives, such as locating former service colleagues to provide corroborating evidence as witnesses.

4.9 As well, the capacity of ESOs and individual representatives to meet the demand for advocacy services varies from State to State, and, in some cases, creates difficulties for them in dealing with their workload in a timely fashion. Because of the varying degrees of skill and experience among these volunteers, and the natural tendency of veterans to seek the services of more successful representatives, it is not always possible to balance caseloads across the pool of available volunteers.

4.10 DVA and VRB advised that delays in preparation of cases also have the effect of increasing acceptance rates at the VRB because a veteran's health is likely to deteriorate over the length of time taken (in some cases over two years) from receipt of the appeal by the VRB to hearing of the case. Because the VRB must assess up to the date of its decision, high acceptance rates on assessment⁴⁰ are to be expected.

4.11 Therefore the limited number of trained representatives and their individual caseload capacity represent a potential risk to the timeliness of the appeal process. Some ESO representatives are handling large numbers (several hundred) cases and this must impact on the quality and timeliness of the service they are trying to offer. Some ESOs advised the ANAO that this issue will become more acute in future because the ageing of experienced representatives means that they will be unable to continue providing the same level of service to veterans. ESOs further advised that, at the same time, they are likely to experience difficulty in attracting, developing and retaining younger representatives of sufficient quality. This is made more difficult by the fact that the majority of representatives are volunteers, although a small number are funded by DVA and provided by ESOs through the Building Excellence in Support and Training (BEST) program.⁴¹

4.12 A 1998 evaluation of the BEST/TIP program concluded that there was little difference in the elapsed time taken by represented and unrepresented applicants to prepare a case. Nevertheless, better outcomes for the applicants were associated with those who were represented.⁴² Around 30 per cent of applicants are not represented at the VRB, but it is

⁴⁰ Entitlement refers to determining whether a disability is accepted as war-caused and the veteran therefore entitled to compensation. Assessment refers to determining the level of disability and therefore the rate of pension payable in compensation.

⁴¹ TIP is an advocacy training program. BEST is an infrastructure support program for ESOs, and provides funding for IT equipment and training as well as for a limited number of representative positions. It was introduced in the 1999 Budget which allocated \$5.6 million to BEST over four years. Funding will continue after the fourth year. Source: DVA Annual Report 1998-99, p. 54.

⁴² Representatives are more likely, through their familiarity with the SoPs and review process, to obtain relevant evidence which will allow the claim to be accepted.

not known what other assistance they may have obtained to prepare their application. Although lack of representation may not affect the overall time taken to prepare a case, it may present a further risk to the efficient operation of the VRB because a veteran without a detailed knowledge of the appeals process and relevant requirements may not be able to prepare a case of sufficient quality to avoid an adjournment.

Variations in skill levels

4.13 Advocacy support is provided by a largely volunteer organisation. The wide range of experience and skill that exists in such a pool of volunteers means that veterans may receive variable quality of assistance from representatives. The ANAO notes that ESOs and the veteran community do not appear to formally assess quality of service in the same way as DVA. From the veteran's perspective, quality of service is likely to be judged primarily on whether the results of an appeal are favourable to the veteran.

4.14 In addition, the structure of ESOs (for example, the autonomous regional nature of R&SLs and Legacy Clubs) means that there is no coherent national organisation to drive consistency of policy and procedure through the advocacy system. Therefore, there may be considerable variation across regions in the degree to which ESOs accept the challenge of contributing more to the claims process. This may lead to inequity of representation for veterans.

4.15 DVA National Office acknowledges that the representatives' skill levels are a key factor in the success of both the initial application and in any subsequent appeal. The ANAO notes that DVA has made significant progress in recent years in creating a partnership approach with ESOs to address this. Since 1994–95, DVA has been funding the Training and Information Program (TIP), from 1996–99 the Claims Assistance Grants Scheme (CAGS) and from 1999 the Building Excellence in Service and Training (BEST) program.⁴³ It is an important element of the DVA/ESO partnership and is run in cooperation with ESOs on a State basis. Each State has a TIP committee which consists of representatives of ESOs and DVA. There is also a national TIP committee. As well, DVA has attempted to achieve consistency of policy and procedure in the advocacy system through a range of forums with ESOs, such as the joint DVA/ESO Operational Working Party and the National and State Compensation Claims Workshops.

⁴³ In the 1999 Budget \$5.6 million was allocated to BEST over four years, with a further \$1.4 million allocated to TIP over three years (following its initial funding of \$1.7 million between 1995-96 and 1998-99). Prior to this DVA provided support through a similar program known as CAGS.

4.16 The ANAO found that ESOs expressed a high level of satisfaction with DVA's overall management of the review system and communication and cooperation with stakeholders. In particular, ESOs generally expressed satisfaction with the TIP program in terms of the content, frequency and geographic spread of training courses. The ANAO considers that the department is making positive steps in this direction and suggests that it should continue to give emphasis to a more skilled and professional advocacy support service.

4.17 The ANAO found that DVA has identified the risks associated with a diminishing pool of volunteer representatives. The department's 1998 evaluation of TIP and CAGS found that:

There is a clear rationale to invest further in TIP and CAGS. The volume of claims is increasing while the number of able volunteers is falling (due to the aging process). In considering options to "increase the stock", clearly, a "volunteers only" policy cannot succeed in the longer term. The need for a parallel system of volunteers and paid staff (managed by the ESOs and facilitating transition between the two categories) seems to be superior (in terms of cost and flexibility) to the Canadian model of public sector employment. The demography and the workloads both point to an increasing number of paid staff and to further support for the ESO's for equipment and infrastructure.

4.18 The ANAO also found that DVA has raised this issue with ESOs. In 1999, the department presented the results of an analysis of the veteran population to ESOs at its national claims management workshop. DVA's presentation made specific reference to the diminishing veteran population from which representatives could be drawn.

4.19 The ANAO considers that the variations in skill levels combined with the diminishing numbers of voluntary representatives represent a risk to the effectiveness of the appeals system as it currently operates. Although DVA has identified these issues, the ANAO found no evidence of any longer-term strategic planning for the management of these risks. The ANAO concludes that, because this element of the review mechanism has such a significant impact on the timeliness of the overall review process, the department should develop a formal strategic plan in cooperation with ESOs which focuses on managing this risk. This could include measures to assist ESOs with recruiting and retention, and consideration of options for providing assistance to veterans in other forms to augment the ESO volunteer network.

4.20 One option could be to provide advocacy services on a fee-for-service basis. The 1998 evaluation of the TIP and CAGS programs noted that the Canadian system of government funded representatives was expensive, but that a greater reliance on funded rather than volunteer representatives would be required. A rejection of a claim at internal (s31) review could be accompanied by an immediate referral to an advocacy service of choice funded on a fee for service basis. A carefully structured fee-for-service arrangement could complement appropriate incentives for obtaining additional medical evidence as early as possible. This could improve the overall effectiveness of the review mechanism by ensuring that decisions can be made at the earliest (and cheapest) possible stage of review on the basis of all the evidence that is likely to become available. Before proceeding, DVA should conduct a cost-benefit analysis of any proposal to extend current advocacy fee-for-service arrangements. Any such extension of advocacy services on a fee-for-service basis would be a matter of policy, requiring Ministerial consideration.

ANAO conclusion

4.21 DVA's approach to supporting the program of Ex-Service Organisation assistance to veterans is a positive initiative. However, the ANAO found that the diminishing availability of volunteers and the variable quality of advocacy services represents a risk to the efficiency and effectiveness of the appeals process. DVA is aware of this and, through the Training and Information (TIP) and Building Excellence in Support and Training (BEST) programs as well as consultation with Ex-Service Organisations, has taken action to address the issue. However, The ANAO found no evidence that the department has any formal strategy or planning which would allow a strategic approach to managing this risk. The ANAO concludes that such a plan is required if the risk is to be managed effectively over the longer term.

Recommendation No.3

4.22 The ANAO recommends that, in order to minimise the risks to the timeliness and quality of review which arise from the variable quality of services provided by a diminishing pool of volunteer representatives, DVA should, in partnership with Ex-Service Organisations, develop a formal strategic plan for providing advocacy support to veterans over the medium to long term. Such an approach could provide a means of dealing more effectively with the issues identified and providing greater confidence and accountability to all stakeholders.

DVA response

4.23 Agreed with qualification. The adoption of this recommendation would require the agreement of the Ex-Service Organisations, which may be concerned about perceived challenge to their independent structures and volunteer networks. DVA has been working in partnership with Ex-Service Organisations through regular consultation, the Training and Information Program (TIP) and the Building Excellence in Support and Training (BEST) grants program to strengthen ESO representation in claims and appeals processes. DVA's 1998 evaluation of the TIP program and the Claims Assistance Grants Scheme (CAGS) explored various models for ESO representational services and concluded that the best model for the moment was one based mainly on volunteers but with anticipated growing numbers of professional ESO advocates. This evaluation laid the basis for the Government decision in 1999 to provide further funding for TIP and BEST to improve advocacy support for the veteran community. DVA will continue to work with the ESOs to deal in a structured way with the issues raised by the ANAO report.

Case management

4.24 Efficient case management which avoids unnecessary duplication of effort and delay is a fundamental enabling factor in the provision of timely services to clients. Therefore, the ANAO examined arrangements for the management of cases by DVA and VRB.

4.25 The ANAO found that DVA and VRB use their own, separate information systems to manage appeal cases. This results in the duplication of registration information and inefficiencies in VRB obtaining the necessary relevant and up to date personal information required to manage cases effectively. It also results in differences in counting of intake, disposal and holdings of cases because of the different time periods used for reporting by the two systems.

4.26 VRB staff often need to request basic information on changes of address or other personal details or the status of cases by means of telephone or email, but VRB staff do not have access to DVA's computerised case management system. This results in inefficiencies in the detailed management of cases which consumes some of both DVA and VRB staff time in checking applications and providing the relevant details. It is difficult to estimate the cost of such involvement with any accuracy. However, based on discussions with DVA and VRB staff members, the ANAO estimates that these activities could occupy half of one position annually in each DVA State Office and VRB State Registry.

4.27 DVA advised that VRB staff had access to its case management system in most States until 1998, when the department implemented a revised privacy policy. The department had considered making relevant system changes to restrict VRB access to appeal case records only but concluded that the cost of doing so was prohibitive. The ANAO suggests that DVA should review the application of the *Privacy Act 1988* in this regard. Privacy requirements could be met through clear guidance to VRB staff on access to the system, on the same basis as other DVA staff in program areas other than disability compensation.⁴⁴ As well, a suitable means of monitoring for browsing of records which are not relevant to VRB could provide assurance that the department is meeting its privacy obligations.

4.28 The ANAO found a general view among DVA and VRB officers consulted during the audit that VRB access to the relevant part of this IT system for the purposes of case management would significantly improve the efficiency with which cases are managed between DVA and VRB. Benefits of a shared database could include greater efficiencies in:

- tracking of the provision of additional medical evidence;
- tracking of outstanding medical investigations;
- registration and changes of personal details (currently veterans need to contact both DVA and VRB to advise changes);
- tracking of appeals awaiting VRB decisions;
- addressing veterans' queries (these are presently tracked using VRB registration numbers); and
- DVA preparation of cases for AAT where DVA and VRB system records do not match.

4.29 In the ANAO's view, VRB access to DVA's IT system would not affect the independence of the VRB in deciding cases at hearing. Nevertheless, any consideration of streamlining administrative processes must bear in mind the need to ensure that there is no perceived erosion of the VRB's independence.

⁴⁴ During the audit, the ANAO consulted the Social Security Appeals Tribunal, who advised that selected officers have access to the relevant Centrelink database for the purposes of managing cases.

ANAO conclusion

4.30 The ANAO found that DVA State Office staff spend a considerable amount of time responding to VRB's requests for current data on appeal cases. This inefficiency arises because DVA and VRB use separate case management systems and VRB does not have access, as a result as a result of the application of the *Privacy Act 1988*, to the DVA system. There is scope for DVA to review its policy on VRB access to the relevant part of its computer system so that, while ensuring that the requirements of the Privacy Act are observed, VRB staff are able to access relevant data on veterans' appeal cases for the purposes of efficient case management.

Quality Assurance

4.31 Quality Assurance (QA) is a checking mechanism which aims to ensure that key processes are consistently delivered to the required standard. QA reports provide managers with essential information necessary to enable continuous improvement of both processes, procedures and staff development.

Improvements to DVA's Quality Assurance program

4.32 DVA's QA program for the disability compensation program was developed in 1994–95 as part of the introduction of the department's computer based decision-support system, known as the Compensation Claims Processing System (CCPS).

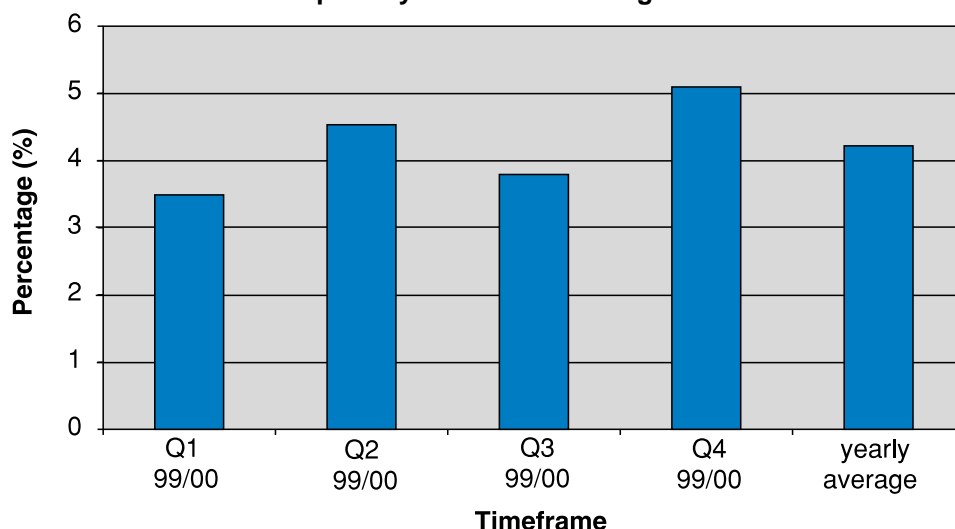
4.33 The ANAO's Report No.3 1996–97 *Compensation Pensions to Veterans and War Widows* examined compensation claims processing shortly after the introduction of CCPS. In this report, the ANAO recommended, *inter alia*, that the department review its QA procedures and clarify the respective responsibilities of National and State Offices in relation to them. During the 2000 audit, the ANAO found that DVA has subsequently undertaken several such reviews. The most recent such review was in early 2000 in response to the ANAO's 1998–99 financial statement audit recommendations.⁴⁵

⁴⁵ The ANAO's interim financial statements audit (1999) reported that the operation of DVA's Income Support National QA Program was less than satisfactory in some State Offices and suggested that an increased level of decision analysis should be included. In the department's Income Support program, a QA enhancement project was initiated to develop a revised sampling methodology with larger sample sizes proportionate to State workload and weighted according to risk. Improvements were also made to reduce differing interpretations of critical errors and to ensure consistency in recording and reporting.

4.34 The National Quality Reporting Procedures for Compensation Claims Processing are based on monthly sampling of decisions which are examined by QA officers in the State Offices. The results are reported on a quarterly basis. There is a national target of less than five per cent critical errors⁴⁶ in primary decision-making averaged over a year. DVA met this target in 1999–2000. The error rates in primary compensation decisions made during 1999–2000 are shown in Figure 17.

Figure 17

Critical error rate in DVA primary decisions—average across all States



4.35 The ANAO found that DVA, in developing its QA program over recent years, had implemented the recommendations of previous ANAO reports mentioned at paragraph 1.27. These recommendations emphasised greater management monitoring and review of the outcomes of QA checks and foreshadowed National Office sampling of State Office QA to ensure consistency across States.

⁴⁶ A critical error is one which has the potential to affect whether a correct outcome is achieved. Non-critical errors related to errors of process. The critical error rate is the proportion of selected primary claims and s31 internal reviews where the decision has resulted in an incorrect grant of or increase in pension, or is based on insufficient information.

4.36 The ANAO also found that DVA National Office, in accordance with the ANAO recommendation for improving consistency across States, subsequently cross-checked State approaches to quality assurance by rotating the sample of claims to be checked. Under these arrangements, one State's sample and review results would be sent to another State for cross-checking. This exercise identified some inconsistencies in the recording of non-critical errors across States. However, as a result of this exercise, a number of further improvements were implemented, including:

- continued rotation of quality assurance checking among States on a quarterly basis;
- National Office to undertake post-decision quality assurance checks on high risk cases;
- National Office to conduct targeted pre-decision checks focussing on investigation/processing and application of procedures and policy;
- review of highest risk cases by means of a risk analysis exercise⁴⁷; and
- quality assurance checks to be recorded on a nationally consistent template report and made available to all States electronically.

4.37 The ANAO found that State Offices use a range of different mechanisms to conduct quality assurance and provide feedback on the results to primary level Claims Assessors and s31 Review Officers. Local arrangements should provide sufficient flexibility for State Offices to meet their own local needs. However, although the ANAO found no evidence of any negative impact from such variations at the local level, they should also be able to provide appropriate feedback to National Office in order to identify emerging national issues.

4.38 The ANAO found an example of better practice in Queensland, which uses a database system to collate and report QA results and to provide formalised feedback on individual cases to Claims Assessors and their Team Leaders for performance management. The ANAO found that this feedback is well-accepted and appreciated by Claims Assessors. The ANAO suggests that the database developed by the Queensland State Office could be used in other State Offices to provide a systematic and reliable approach to the recording of errors and the provision of associated feedback.

⁴⁷ The current QA program addresses risk by targeting high risk types of payments (such as Above General Rate) for pre-decision QA checks (although pre-decision checks do not apply at the s31 review level). High risk categories are reviewed at a minimum of six monthly intervals.

4.39 The ANAO also found that some DVA State managers questioned the adequacy of the current sample size for quality assurance checks of decisions (about 23 cases per month in most States). DVA's Strategic Review Branch advised that the sampling methodology meets current accountability requirements. However, this is not necessarily perceived by some managers as a reliable indicator of business performance. Any proposal to increase the size of QA samples, whether for national or local purposes, has resourcing implications. The ANAO suggests that the issue of sample size in relation to State business levels should be reviewed and appropriate advice regarding its adequacy provided to managers.

Quality Assurance coverage of review activity

4.40 As outlined in Chapter 3, the ANAO also found that the QA arrangements in relation to review processes are limited. The department does not undertake QA of its s137 or s37 reporting⁴⁸, and QA coverage of s31 review decisions is very small (one or two cases are generally included in each monthly sample in each State). Although many departmental officers view the internal review process as a quality check in its own right, the ANAO considers that QA of internal review could be improved by expanding the scope of checks on internal s31 reviews and including s137 and s37 reports in the QA program.

4.41 DVA advised that it has been reviewing its QA program during late 2000 and early 2001 and is preparing a new program which should address the ANAO's concerns by, among other improvements:

- including s137/s37 reports on the evidence in the scope of QA activity; and
- subject to funding, adopting the Income Support Division QA reporting system, known as QASARS, to cover all Disability Compensation, Income Support and MCRS QA reporting with a view to streamlining reporting and reducing the paper flow associated with the current system.

⁴⁸ S37 reports are prepared by DVA for veterans and the AAT in a similar manner to s137 reports when an appeal is taken to the AAT. These reports are similar to s137 reports in that they set out the available evidence relevant to the decision under appeal.

ANAO conclusion

4.42 The ANAO found that although primary decisions are covered by the quality assurance program, quality assurance of internal review is limited. As well, there is no quality assurance of reports on evidence prepared by DVA for the purposes of external review by the VRB. The ANAO found that DVA is continuing work undertaken over recent years to further develop and refine a more robust quality assurance system. DVA advised that it plans to extend quality assurance to internal review and reports on evidence. DVA also envisages supporting this with a common computer based quality assurance reporting system for both the Disability Compensation and the Military Compensation and Rehabilitation Scheme (MCRS), although DVA advised that funding for this is not yet available

Performance information

4.43 The establishment of a performance assessment framework and a system of monitoring against that framework are important tools in the management of programs and performance improvement. Performance measures and performance information are an integral component of this. To be useful, measures should be balanced and useful and performance information should be accurate, timely and reliable.

Quality measures and reporting

4.44 The ANAO found that DVA has adequate performance measures in relation to quantity and timeliness of review activities. However, although DVA has a key performance indicator which measures the number of critical errors in primary decisions (and to some extent in s31 reviews), the ANAO found that the department has no other measures of quality for the other elements of its review activities, including s137 and s37 reporting. The quality of these reports on the evidence is important because they form the basis of veteran/representative preparation of appeal cases and VRB's decision-making on the case. As noted at paragraphs 3.25 to 3.28, the ANAO found that, until recently, both VRB and ESOs have considered the quality of these reports to be below standard, but the department has had no objective means of measuring this. As outlined above in the discussion on quality assurance, such information is vital for monitoring and improving the quality of these reports.

Accuracy of quantity measures

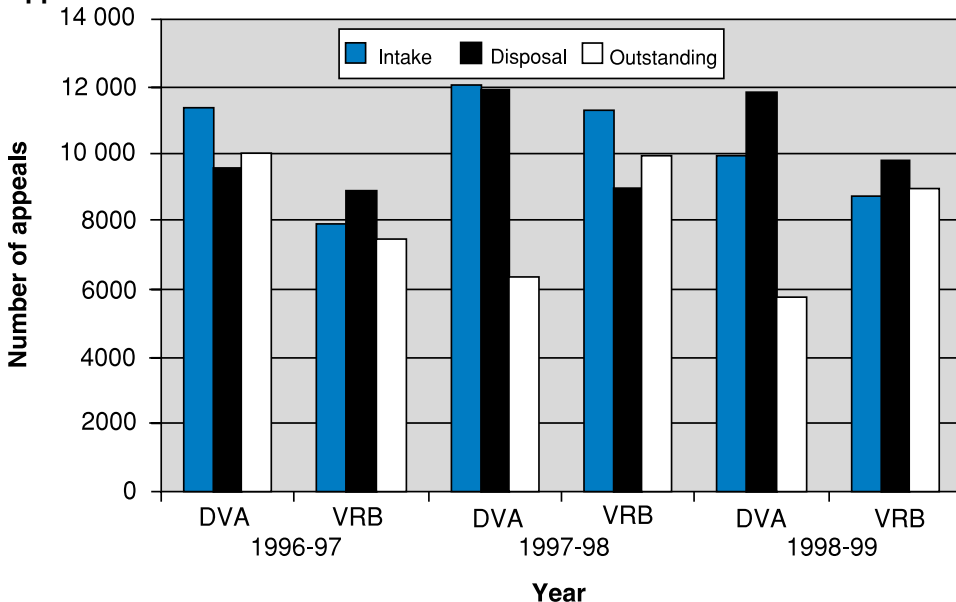
4.45 The ANAO found that DVA and VRB record the number of appeal cases differently. Appeal rates reported by VRB differ from those

collected by DVA management information systems because, where there are a number of disabilities claimed, VRB counts the number of decisions on each disability rather than recording a single case. Some appeals can be against only one aspect of a case (that is, against a particular part of a decision relevant to one of a number of the veteran's contentions). As well, VRB performance information is collected over four 14-week periods while DVA's is based on the calendar year. This makes accurate comparison of performance information difficult.

4.46 Comparison of DVA and VRB information on intake, disposals and outstanding claims at VRB shows that DVA and VRB data differ. The magnitude of the differences are shown in Figure 18. DVA advised that this occurs because information is collected on the same cases at different stages of the process. Therefore, there is scope for misunderstanding and/or drawing misleading conclusions from comparison of appeals data that may not be based on the same assumptions. Comparison of data is also complicated by the fact that, from July 1999, at the VRB's request (to make the administrative practice consistent with a Federal Court ruling), DVA began to register applications that concerned both entitlement and assessment matters as a single application. Previously, such an application would have been registered as two applications.

Figure 18

Comparison of DVA and VRB data on intake, disposal and outstanding appeals 1996-97—1998-99⁴⁹



⁴⁹ Data from DVA Performance Reporting System (PRS) and VRB Annual Reports.

4.47 The ANAO found, for example, that DVA reported to the Repatriation Commission in late 1998 using different data to that published in other internal reports. This data was based on individual disabilities and death decisions, and on decisions made at the VRB rather than on applications received at the VRB, which may be withdrawn due to intervention at s31 review. The ANAO also noted that data on the same measure (of cases determined at the primary level) used by DVA to analyse performance over time showed different values in different reports on the same reporting periods.

4.48 The ANAO concludes that, in order to draw accurate conclusions about the progress of appeal cases through the administrative review system, data on appeals cases and decisions needs to be counted and interpreted in a consistent manner.

Overall conclusion

4.49 The ANAO identified a number of opportunities for improvement in the management of some of the department's activities which support internal and external reviews. These included:

- development of a strategic plan for better managing the risks associated with the system of voluntary representation of veterans at the VRB;
- streamlining day to day case management through better exchange of necessary veteran details between DVA and VRB;
- broader application of quality assurance processes to internal review and the department's reports to veterans and the VRB on evidence considered in making the primary decision; and
- consistent counting and interpretation of data by DVA and VRB on appeal cases.

Recommendation No.4

4.50 The ANAO recommends that, to ensure that performance information enables accurate assessment of performance in the appeal system, DVA and VRB should agree on a common method of counting appeal cases and decisions.

DVA response

4.51 **Agreed.** DVA had agreed with the VRB that it would quote the VRB's own figures for any external reporting or for reporting to the Repatriation Commission. Nevertheless, DVA will examine the issues raised about counting systems and protocols.

VRB response

4.52 Agreed. The VRB will cooperate with DVA and agree on a common method of counting cases. The VRB observes that this should not prove difficult as several modes of counting cases and review issues have been developed to meet particular managerial needs. The issue is one of coordination.

5. Management of External Review by the Veterans' Review Board

This Chapter examines the VRB's management of those aspects of the external review process which fall within its sphere of responsibility.

Introduction

5.1 The VRB operates as an independent statutory body under the VEA. It is headed by the Principal Member.⁵⁰ Non-judicial panels, usually comprising three members of the VRB, hear appeals by veterans or other claimants (for example, widows) in State capitals and regional centres.

5.2 The total outlays of the VRB, including hearing veteran appeals, were \$7.1 million in 1999–2000. On average, each VRB case in 1999–2000 cost \$813,⁵¹ which represents a slight increase over the figure of \$764 for the previous year. It should be noted that, as outlined previously in this report, DVA also supports the costs of assisting veterans to prepare and represent their cases through grants to Ex-Service Organisations for infrastructure and resources (for example, the purchase of computers), and by funding the training of their volunteer representatives.

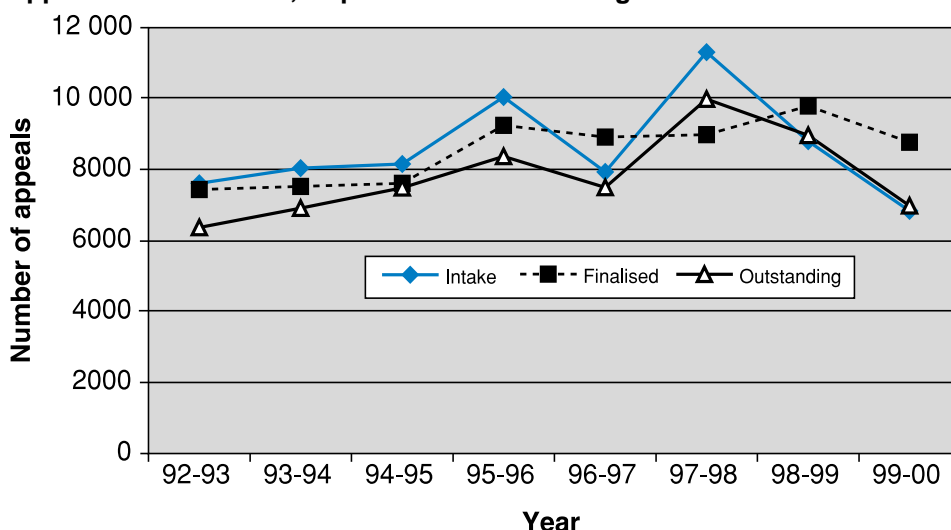
Management of reviews

5.3 An example of a review case conducted by the VRB is provided at the end of this Chapter. VRB's disposal of cases⁵² has generally increased slightly each year in response to the increase in numbers of appeals which continued up until 1997–98. The trend is shown in Figure 19.

⁵⁰ The Principal Member is responsible for all aspects of management of the VRB.

⁵¹ This does not include the costs of providing advocacy support for veterans, which is met by ESOs and DVA.

⁵² A disposal is defined as a case being finalised either through publication of a decision, withdrawal by the applicant or referral of assessment cases to DVA for investigation and assessment under s152 of the VEA.

Figure 19**Appeals to VRB: intake, disposals and outstanding cases⁵³**

5.4 The holding of cases within VRB at the end of the year, sometimes referred to as a 'backlog', is an issue of obvious concern to the VRB, ESOs, veterans and other stakeholders. In any case management system in which the applicant may take some time to prepare for hearing, there will always be a number of cases which are being prepared and/or awaiting hearing. By the end of 1998–99, there were 8965 cases outstanding at the VRB. This was approximately 10 per cent fewer than in 1997–98. VRB reduced this number still further to almost 7000 cases outstanding at the end of 1999–2000. VRB has not achieved such a low level since 1993–94.⁵⁴

5.5 More detailed analysis of the outstanding cases is required to make an assessment of the performance of the VRB in managing cases. Of almost 7000 applications outstanding at the end of 1999–2000, 21 per cent were with the VRB, with approximately 13 per cent certified as ready to proceed to hearing. The remaining cases were either with the applicant (71 per cent) or with the department (8 per cent) awaiting preparation of s137 reports, s31 review or further evidence under s152

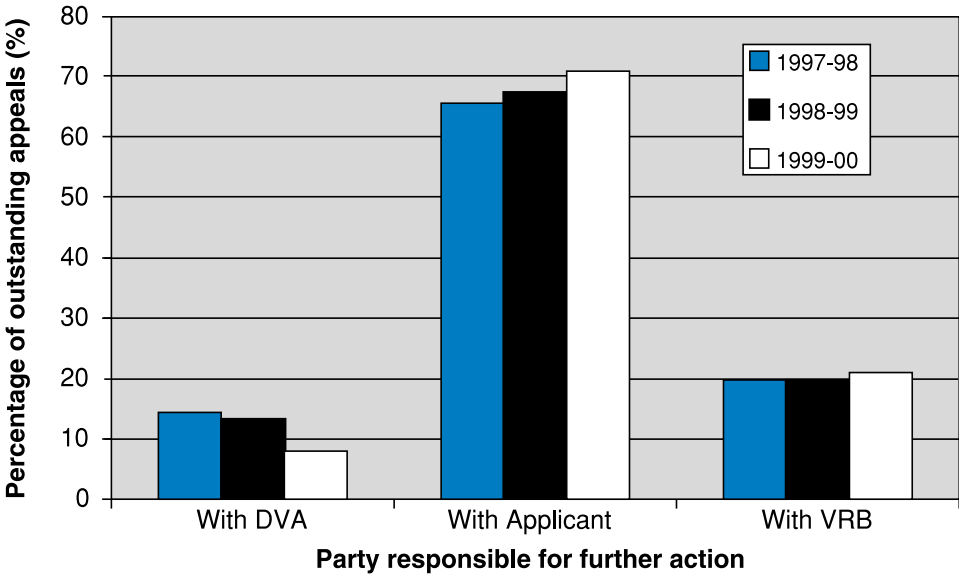
⁵³ VRB data. Note that from July 1999, at the VRB's request (to make the administrative practice consistent with a Federal Court ruling), DVA began to register applications that concerned both entitlement and assessment matters as a single application. Previously, such an application would have been registered as two applications. Thus prior to 1999–2000, data on applications is estimated by VRB to have been inflated by approximately 5–10 per cent.

⁵⁴ Although, because of changes in the way cases are counted, this number equates to approximately 7600 cases in previous years.

of the VEA. Year on year comparisons are shown in Figure 20. This indicates small decreases in the proportion of applications with the department, small increases of three to four per cent of cases with the applicant and little change in cases with the VRB.

Figure 20

Status of outstanding veterans' appeals⁵⁵



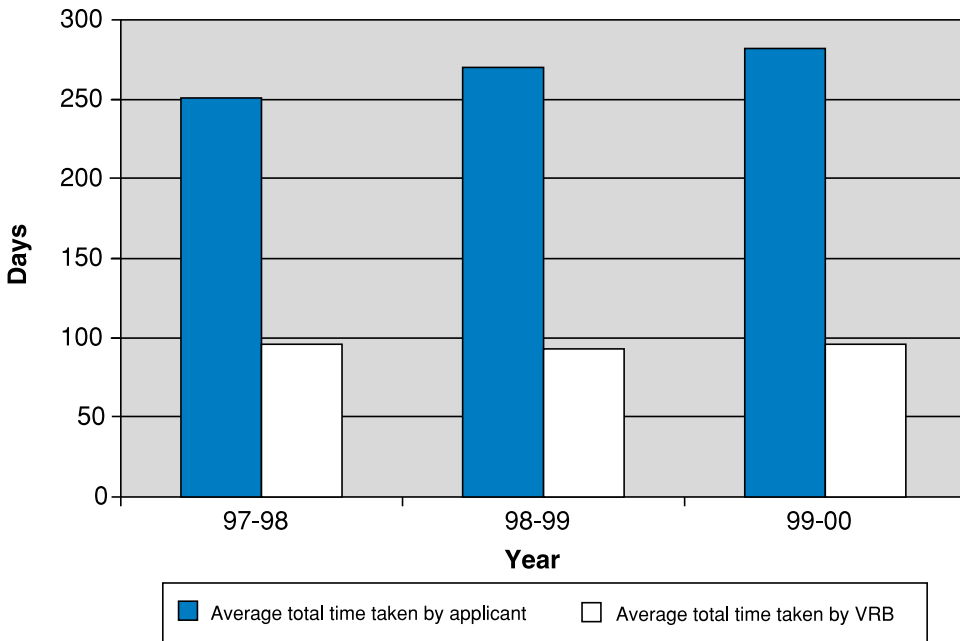
Timeliness of external review

5.6 Closer examination of performance information on the timeliness of each stage of the appeal process shows that, on average VRB processes over which VRB has direct control take up less than one third of the total elapsed time taken to review appeals. Over two thirds are taken by the applicant in preparing their appeals.

5.7 Figure 21 shows that while intakes of appeals have decreased slightly, VRB's capacity to finalise appeals and the time taken to do so has remained steady. On the basis that VRB's outlays have reduced by almost 10 per cent since 1991–92⁵⁶ while increasing the number of cases it has finalised by approximately 17 per cent over the same period, the ANAO concludes that VRB is managing its part of the external review process so as to continually improve its performance.

⁵⁵ ANAO analysis of data from VRB Annual Reports.

⁵⁶ See Table 2 of this report.

Figure 21**Timeliness of review at VRB (days)**

5.8 VRB also advised that it has had difficulty in some States in listing cases for hearing, mainly due to the availability of representatives. VRB estimated that numbers of cases finalised by the Board in 1999–2000 would be approximately 10 per cent fewer than in 1998–99. The capacity of advocacy services provided by ESOs was discussed in Chapter 3.

Case management

5.9 The ANAO found that, as part of VRB's case management approach, VRB Case Officers regularly follow up (at approximately three monthly intervals) the progress of cases for which a Certificate of Readiness for Hearing (CoRH) is still awaited. If there is no progress after two years, VRB may under the VEA, initiate action to dismiss the case by writing to the applicant. In 1999–2000, VRB sent out almost 1200 letters asking for a written statement from applicants as to why they were not ready to proceed to hearing. These letters resulted in a total of 300 applications being dismissed, over 200 being withdrawn and over 300 requests for a hearing, while the remainder provided a reasonable explanation or were being followed up in accordance with VEA. The ANAO concludes that VRB has in place an active approach to case management.

Management of adjournments and postponements

5.10 The extent to which hearings are adjourned is an indirect indicator of the efficiency with which the external review process is operating. An efficient review process would only require one hearing. However, adjournments are normally required when new evidence is presented by one party (usually the applicant) and this needs to be considered by the panel or if additional evidence, such as further medical investigation, is required. Submission of new evidence by the applicant at the hearing indicates a lack of preparation or a deliberate tactic aimed at achieving a positive outcome for the veteran. VRB data for 1999–2000 shows that around 12 per cent of hearings were adjourned.

5.11 A key indicator of VRB's efficiency in listing cases for hearing is its ability to replace hearings which are postponed with standby cases. VRB has strict rules as to the notice required for postponement, and if a request is received on the day when the listing is scheduled, the hearing will commence. The panel then decides whether it will proceed or adjourn as necessary. In 1999–2000, approximately six per cent of hearings were postponed as a result of a request from the applicant prior to the commencement of hearing. VRB replaced almost 90 per cent of these cases with standby cases. On this basis, the ANAO concluded that VRB manages its listing operations efficiently.

Overall conclusion

5.12 Overall, the audit found that ESO representatives were satisfied with the level of service provided by the VRB. VRB is managing those aspects of the review process within its direct control in a timely and effective manner. The ANAO concluded that VRB is managing its part of the external review process so as to continually improve its performance.

Example of a Review Case

This example is included to illustrate a review by VRB as referred to at paragraph 5.3.

Chronic Phobic Anxiety—Service in Vietnamese Waters

A veteran applied to the Repatriation Commission for compensation in relation to chronic phobic anxiety, which he believed was caused as a result of his service in the Royal Australian Navy in Vietnam. The Repatriation Commission decided that his chronic phobic anxiety was not war-caused within the meaning of the VEA. After internal review under s31 of the VEA, the Repatriation Commission decided not to amend the decision. The veteran then applied to the VRB for a review.

The veteran claimed that his disability had been caused in May 1969, during the Vietnam War, when he was serving on board HMAS Vampire while that ship was operating in support of HMAS Sydney in Vietnamese waters. He claimed that his chronic phobic anxiety had been caused by the stress of being under threat of death or physical injury as a result of the possibility of limpet mines being placed on the ship by Viet Cong divers.

The VRB found that HMAS Vampire entered the operational area for approximately 15 hours on 19 May 1969. The VRB considered that there was no reason to consider that HMAS Vampire was under immediate danger from hostile action while in Vung Tau harbour on 19 May 1969. The Board concluded that the veteran's chronic anxiety disorder was not war-caused or defence-caused under the terms of the VEA and affirmed the Repatriation Commission's original decision.



Canberra ACT
28 February 2001

P. J. Barrett
Auditor-General

Appendices

Appendix 1

Key findings of previous ANAO reports

The ANAO has undertaken three previous audits on veterans' compensation. These were:

- Audit Report No.8 1992–93 *Compensation Pensions to Veterans and War Widows*.
- Audit Report No.15 1994–95 *Follow-Up of an Efficiency Audit on Compensation Pensions to Veterans and War Widows*.
- Audit Report No.3 1996–97 *Compensation Pensions to Veterans and War Widows*.

Key findings and improvements resulting from these reports are summarised below.

Report No.8 1992–93

The ANAO's Report No.8 1992–93 made 50 recommendations. In response to Recommendations No.1–5, which recommended fundamental review of aspects of the operation of the Compensation Sub-Program, the Minister for Veterans' Affairs appointed a three member Veterans' Compensation Committee, headed by Professor Peter Baume, to address the issues identified by ANAO. The committee presented its report, *A Fair Go* [or 'the Baume Report'] in March 1994. The Government response to some parts of the Baume Report included a number of initiatives which were announced in the 1994–95 Budget.

These included:

- the introduction of Statements of [Medical] Principles (SOPs) to guide decision-making in compensation cases;
- the subsequent establishment of the Repatriation Medical Authority (RMA)⁵⁷;
- development of an automated decision support tool called the Compensation Claims Processing System (CCPS);
- the introduction of the Guide to Assessments and Rates of Pensions (GARP) 5th Edition;
- strengthened monitoring of decisions through quality assurance; and
- adjustments to the rates of pension to align more closely with the intent of legislation.

⁵⁷ The RMA was designed to ensure a more equitable and consistent system of determining claims for disability pensions for veterans and their dependants. Source: Veterans' Affairs (1994-95 Budget Measures) Legislation Amendment Bill 1994 Explanatory Memorandum.

Key recommendations relevant to the appeals process and which remain relevant to the 2000–01 audit include:

- No.16—that:
 - a. DVA National Office adopt a clearer central management and direction role; and
 - b. increase resources allocated to medical/aetiological policy, guidance and support.
- No.18—that the Repatriation Commission enhance, expand and provide more specific guidance on the current SoPs;
- No.44—that the Repatriation Commission, in consultation with VRB and AAT, review the appeal process for assessments, considering the appropriateness of replacing VRB hearings with a more efficient DVA internal procedure;
- No.45—that the Repatriation Commission review the desirability of requiring appellants to place all new evidence before the Repatriation Commission prior to hearing at VRB, subject to a requirement that the Commission reconsider its decision within one week;
- No.46—that the Repatriation Commission review current arrangements for free access to all levels of appeals, regardless of merits;
- No.47—that the Repatriation Commission consult with VRB regarding SoPs so that the statements may guide them in their own decision making;
- No.48—that the Repatriation Commission improve liaison arrangements between the Repatriation Commission/DVA and the appeal bodies;
- No.49—that the Repatriation Commission improve feedback from the appeals decisions to decisions made at the primary levels.

Report No.8 concluded overall that:

- appeals more likely to succeed at VRB/AAT if new evidence is presented;
- reassessment of assessment cases by DVA would have achieved substantially the same result as was produced by VRB but would be more efficient;
- many assessment appeals are increased as a result of updated medical evidence on assessment (for example, more recent audiogram for hearing loss);

- where the issue at dispute is the lifestyle rating, discussion between the veteran/representative and the delegate of the Repatriation Commission would be more efficient than involving the VRB;
- appeal bodies account for more than 40 per cent of TPI pensions granted;
- a high rate of appeal and of success on appeal for TPI claims is inevitable within the current legislative framework because of inadequacies in the current operations of the program relating to TPI pensions, combined with free access to appeals and prospect of substantial financial gain;
- many diseases/deaths accepted as war caused under current VEA may not be readily reconcilable with the community's understanding of war causality;
- DVA and appeals bodies were unable to produce consistent results for veterans—greater consistency by appeals bodies is possible;
- feedback from higher levels of appeals seems inadequate;
- review process largely drives the policy of the Compensation Sub-Program—DVA's policy making role is generally reactive and submissive to appeal decisions;
- decisions on appeal over the years have tended to widen the scope of war caused conditions connected with service;
- the program cannot be operating effectively if amendments to decisions on appeal are such a costly and frequent part of the decision-making process;
- fundamental changes to the scope, size and nature of the appeals process requires major changes to the current legislative framework; and
- some improvements can be achieved by less fundamental change, including
 - a. improved primary decision-making reducing the number of cases going to appeal; and
 - b. greater consistency in decisions by the appeals bodies.

Report No.15 1994–95

Report No.15 1994–95 noted that DVA was in the process of establishing a number of measures to implement the recommendations of Report No.8 1992–93 with the aim of improving the effectiveness of appeal mechanisms and reducing the numbers of appeals. Report No.15 did not make any

recommendations, but concluded that there were a number of other issues to be addressed if the gains from DVA's initiatives were to be fully realised. It reminded DVA of the priority recommendation of Report No.8 1992–93 to improve its annual reporting to the Parliament on the results and trends of compensation decisions and assessment of their implications for the effectiveness of the sub-program.

Further, Report No.15 queried whether the VRB was the most effective body to carry out the essentially administrative nature of assessing impairment when reviewing primary decisions. The report noted that although use of an automated Compensation Claims Processing System may well reduce the number of appeals based on incorrect application of the assessment guidelines, the report recommended that *'this matter should be reviewed in due course'*.⁵⁸ The establishment of the RMA was expected to ensure greater consistency between the primary and appeal levels and to lead to a reduced number of appeals.

A key risk identified in both reports was that inequities and inconsistent outcomes may still result in spite of SOPs unless evidence was used more consistently. The ANAO concluded that DVA would need to address the issue of use of evidence in a more substantial way following the introduction of the new processing arrangements if the potential for improved consistency is to be fully realised. DVA responded that it planned to address this through training for all Claims Assessors and a Quality Assurance program designed to identify operational problems with the use of evidence.

With regard to appeals, Report No.15 concluded that the measures to improve primary processing would be likely to reduce the number of appeals. It further concluded that the introduction of the RMA would give guidance in determining war-causality and should help address inconsistent approaches within and between decision-making levels. The ANAO noted that the new measures would be likely to reduce the appeal rate, but that in the absence of detailed analysis on why claimants appeal, the measures may not be sufficient to limit the number of appeals. The ANAO further noted that *'there is no limit on the number of times a claimant may appeal on the same issue, nor is there any disincentive for them to do so. This is a matter for consideration by Government, and may benefit from review in the future.'*

⁵⁸ Report No.15 1994–95, p. 17.

The ANAO foreshadowed two other budget measures intended to increase the effectiveness of VRB and reduce demand on the AAT. These were:

- payment of fees for medical reports obtained by veterans in support of their appeal to VRB;
- a Training and Information Program (TIP); and
- introduction of compulsory Certificates of Readiness.

The ANAO noted that the incentive to appeal is considerable because of high chances of success and lack of limitations on the number of times a claimant could appeal, and concluded that without changes to these aspects, the new measures outlined above might have a limited effect on the rate of appeal.

Report No.3 1996–97

Overall conclusions

Report No.3 concluded that, overall, the priority recommendations of the 1992–93 audit for fundamental review of the Compensation sub-program had been addressed through the establishment of the independent Veterans' Compensation Review Committee. The Committee's report, *A Fair Go*, was released in March 1994.

The Government responded to parts of the Committee's report by announcing a number of initiatives in the 1994–95 Budget. These initiatives were estimated by the department to result in savings of almost \$45 million over the four years to 1997–98. The Report concluded that the department had also made very substantial reforms to its administrative processes following the 1992–93 Report and had successfully bedded down most of these changes. The changes addressed in large measure the substantial number of ANAO recommendations aimed at improving the efficiency, effectiveness and client service of DVA's administration of pension claim processing. As a result the department had achieved substantial efficiency improvements and improvements in the consistency of decision-making.

The 1996–97 Report concluded that DVA would benefit from greater focus on quality assurance and effective performance information. The department acknowledged the audit findings and noted the greater emphasis being placed on getting the right decision, quality assurance and effective performance information.

Key Findings

Efficiency of claims processing

The 1996–97 Report found that reforms to DVA processes, including the introduction of the Compensation Claims Processing System (CCPS), had led to substantial improvements in the efficiency and administrative effectiveness of claims processing. The ANAO tentatively estimated from workload and staffing data that the department had achieved the \$3 million per annum savings anticipated by the ANAO, but the ANAO was not able to fully substantiate this because of lack of data on, for example, offsetting costs.

The 1996–97 Report found that CCPS had clearly brought considerable benefits to the department and the veteran community. However, the implementation of CCPS had been subject to delays (by about one year) and substantial cost increases (development cost of over \$7 million when last assessed in late 1994, approximately double earlier estimates). The ANAO concluded that the department would benefit from reviewing the lessons to be drawn from these experiences for future projects (including updating its financial information on the project). The department subsequently completed a post implementation evaluation in 1997⁵⁹.

Improved liaison with claimants

The 1996–97 Report found that reforms had resulted in improved liaison with claimants and ex-service organisation representatives. Clients were kept informed routinely by telephone contact of the progress of their claim. Reasons for the delegate's decisions were subsequently provided in plain English. (However, as outlined in this discussion paper, the 2000–01 audit found that reasons for decision could still be improved).

Consistency and quality of decision-making

One of the most important aspects of program management addressed by the ANAO in the 1992–93 audit was the inconsistency of decision-making at both the primary and appeals levels. The 1996–97 Report found that reforms since then had created a far more rigorous framework for decision-making. Consequently there had been a substantial improvement in consistency of decision-making since the introduction of CCPS, with a convergence in some disability acceptance rates between States.

⁵⁹ Report of the Evaluation of the Compensation Claims Processing System, June 1997.

However, the 1996–97 Report concluded that DVA could usefully explore the reasons for remaining differences in acceptance rates. There was also scope for improvement in the Quality Assurance Program (QAP); in particular the department would benefit from addressing further how national quality standards can be assured in a devolved environment. In response the department indicated that the priorities and strategies for a decision analysis component of the Quality Assurance Program were being developed and would include, inter alia, detailed analysis of the differences in acceptance rates.

Appeals

The 1996–97 Report found that increased use of internal appeal mechanisms by DVA had substantially reduced the number of appeals dealt with by the Veterans' Review Board (VRB). The reforms had also generally improved the degree of consistency in approach between the levels of decision-making.

Program evaluation and performance indicators

The department had not yet addressed the priority ANAO recommendation from the earlier audit to publish performance information providing better descriptions of the results and trends of compensation decisions and the assessment of their implications for the effectiveness of the program.

Delays in implementing CCPS and related factors had hampered the department in addressing this issue. In the ANAO view, this remained an important accountability issue, since no additional information had been published in this regard since the original audit and the Baume Committee Review of Veterans' Compensation of March 1994. Expediting the planned development of a performance indicators system would facilitate achievement of this goal. The department indicated its intention to improve reporting of performance information in its 1995–96 Annual Report.

Use of medical resources

In the ANAO's view, there remained scope to improve procedures for the allocation, monitoring and control of expenditure on medical investigation. For example, budgeting and monitoring of such expenditure was found to be limited. The department acknowledged the need for improvements and indicated its intention to amend systems to collect the relevant information, taking account of structural changes in the way expenditure on medical investigation is incurred.

Appendix 2

Recent reforms to the administration of Veterans' disability compensation decisions

Following the ANAO's Report No.8 of 1992–93 *Compensation Pensions to Veterans and War Widows*, the Government established an independent Veterans' Compensation Review Committee. The Committee published its report, *A Fair Go*, in March 1994⁶⁰. The Government responded to parts of the Committee's report by announcing initiatives in the 1994–95 Budget. The department also made significant reforms to its administrative processes. These changes addressed the majority of the ANAO's recommendations aimed at improving the efficiency, effectiveness and client service of DVA's administration of claim processing. This appendix contains a summary of recent and current reforms to the administration of veterans' disability compensation, including the impact of the introduction of computer-assisted decisions support system.

ANAO Report No.3 of 1996–97 *Compensation Pensions to Veterans and War Widows* found that DVA had made substantial improvements in its efficiency and in the consistency of decision-making. The report made six recommendations. The department's implementation of these recommendations is summarised at Appendix 3.

The department's reforms include the creation of the Repatriation Medical Authority (RMA), introduction of medical Statements of Principle (SoPs)⁶¹ and the Compensation Claims Processing System (CCPS), and greater use of internal (s31) review.

⁶⁰ *A Fair Go*, Report on Compensation for Veterans and War Widows, March 1994, AGPS.

⁶¹ In 1994 the Australian Government requested the Repatriation Commission, in consultation with veterans' organisations, to prepare legislation to reform the process of decision making about disease causation. The aim was to create a more equitable and consistent system of dealing with claims for disability pensions received from Australian veterans and their dependants. One of the outcomes of the legislative reform was the formation of the Repatriation Medical Authority (RMA) which is an independent statutory authority responsible to the Minister for Veterans' Affairs. The RMA consists of a panel of five practitioners eminent in fields of medical science. Its role is to determine Statements of Principles (SoPs) for any disease, injury or death that could be related to military service, based on sound medical-scientific evidence. The SoPs state the factors which "must" or "must as a minimum" exist to cause a particular kind of disease, injury or death.

The SoPs are disallowable instruments that are tabled in both Houses of the Australian Parliament and they are binding on the various decision makers. The matters of fact relating to an individual veteran's case, including the nature of service and any connection between eligible service and the factors in the SoPs, are still determined by the various decision makers. These decision makers include the delegates of the Repatriation Commission, the Veterans' Review Board and the Administrative Appeals Tribunal.

Impact of the Compensation Claims Processing System (CCPS)

The department introduced the CCPS progressively in all States from March to September 1994. The first full year of operation of the system was 1995–96. As a result, the department achieved a substantial improvement in performance in its processing of compensation claims in comparison with previous years. The department received a then record high level of 54 000 compensation claims, processed a record high level of 59 000 claims and reduced its work holding from 16 000 to a record low level of 11 000. This level of performance continued with over 60 000 claims processed in 1997–98 against an intake of 58 000 claims. The number of primary claims finalised then continued to exceed the number of claims lodged, while reducing the number of outstanding claims at year end.

DVA estimates that CCPS has resulted in:

- productivity improvements of around 80 per cent, since approximately 30 per cent fewer staff now finalise almost 30 per cent more decisions per annum than was the case before introduction of the system;
- 60 per cent reduction in average time taken to process claims and appeals (from 160 days to around 60 days);
- estimated reduction in running costs of \$2–3 million per annum (excluding on-costs) or upwards of \$6 million per annum (including on-costs such as State and National Office overheads);
- improvements in the consistency of decisions and therefore more equitable treatment of claimants;
- improved internal review of claims;
- better management information; and
- better support and acceptance by the veteran community.

Current reforms

The audit was undertaken during a period of considerable policy and administrative change. These changes included the introduction of proposals for a new Administrative Review Tribunal (ART) and the transfer to DVA of administration of the Military Compensation and Rehabilitation Scheme (MCRS). As well, the Government is still considering its response to the recommendations of the Ministerially-sponsored Review into Military Compensation. This review was conducted by Mr Noel Tanzer, who is a former Secretary of the department.

The proposed Administrative Review Tribunal (ART)

In 1993 the Government commissioned the Administrative Review Council (the ARC) to inquire into the Federal tribunal system. The ARC released its report, *Better Decisions*, in 1995. The *Better Decisions* report⁶² recommended, *inter alia*, the establishment of a new Administrative Review Tribunal (ART).

The Government introduced the Administrative Review Tribunal Bill 2000 into the Parliament in June 2000. It provides for a fundamental reform of the system of federal merits review. It will establish the ART to replace four merits review tribunals—the Administrative Appeals Tribunal (AAT), the Social Security Appeals Tribunal (SSAT), the Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT). The Veterans' Review Board is to remain as currently constituted, with second tier review occurring within the Veterans' Affairs division of the ART.

Implementation of the Tanzer Report recommendations

In March 1999, Mr Noel Tanzer submitted his report on the Review of Military Compensation.⁶³ The report set out options for a single, self-contained military compensation scheme for peacetime service.

The recommendations include new governance and administrative arrangements for a proposed new single scheme to replace existing Military Compensation and Rehabilitation Scheme (MCRS) and VEA entitlements. As a result of the Tanzer Report and close cooperation between DVA and the department of Defence, responsibility for administration of MCRS transferred to DVA in late 1999. However, the Department of Defence retains its policy and Occupational Health and Safety responsibilities in relation to MCRS.

The Military Compensation and Rehabilitation Scheme

The recent transfer to DVA of responsibility for administration of MCRS in addition to veterans' disability compensation has resulted in a requirement for the Department to manage two different appeal processes. The differences in appeal processes between disability compensation and MCRS may be perceived as creating some anomalies, which are outlined below.

Under the ART Bill, special arrangements are made for veterans' appeals in comparison with appeals in other jurisdictions. VRB is to be retained,

⁶² *Better Decisions*, Review of Commonwealth Merits Review Tribunals, Administrative Review Council, 1995.

⁶³ *Review of the Military Compensation Scheme*, Noel Tanzer, AGPS, 1999.

with automatic review at the second tier of the ART. This results in different handling at the ART level of the administrative review processes of MCRS matters and VEA matters. Therefore there is scope for improving the alignment of these review processes⁶⁴.

⁶⁴ Under current arrangements, MCRS matters would be addressed in the proposed Workers' Compensation Division and the responsible minister is the minister responsible for the *Safety, Rehabilitation and Compensation Act 1988*, that is, neither the Minister for Veterans' Affairs nor the Minister for Defence.

Appendix 3

Implementation of recommendations of ANAO report No.3 1996–97 *Compensation Pensions to Veterans and War Widows*

The ANAO found that all recommendations have been implemented. Details are provided in the table below.

Recommendation	Comment
<p>Review of Compensation Claims Processing System (CCPS)</p> <p>Recommendation No.1 The ANAO recommends that the department formally reviews the lessons to be learnt from management of the CCPS investment and reforms, and in particular:</p> <ul style="list-style-type: none">• estimate the net ongoing savings and the offsetting costs of CCPS; and• draw on the lessons of CCPS project management to identify good practice for future projects.	<p>The Report of the Evaluation of the Compensation Claims Processing System published in June 1997 addressed both parts of the recommendation. However, the cost-benefit analysis in this report noted that, although there were clear savings, the quantum of savings should be treated with some caution⁶⁶ because of some of the assumptions made and the difficulties of accurately assessing 'notional on-costs'.</p>
<p>Program evaluation and performance indicators</p> <p>Recommendation No.2 The ANAO recommends that, as recommended in Report No. 8 1992–93, the department improve its annual reporting to Parliament by providing performance information which describes the results, trends in, and basis of, compensation decisions (for example by pattern of disease, hypothesis and type of service) and thus provides a framework for assessment of their implications for the effectiveness of the program.</p>	<p>DVA provided analysis of decision trends on pages 128–133 of the 1998–99 Repatriation Commission Annual Report. A similar analysis was provided on pages 130–133 of the 1999–2000 Annual Report. In particular, tables 19 and 25 of the respective Annual Reports show the results of primary level decisions on the 10 most frequently claimed disabilities covered by Statements of Principles in the relevant years.</p>
<p>Consistency of decision-making</p> <p>Recommendation No.3 The ANAO recommends that regular analysis be undertaken to establish the reasons for the disability acceptance rate differences between States.</p>	<p>DVA produces reports on the level of acceptance of different disabilities by State. Detailed analysis of acceptance rates is undertaken by DVA's Decision Support Unit (DSU) in the course of its review of the application of Statements of Principle.</p>

⁶⁶ Report of the Evaluation of CCPS, June 1997, Volume1, p. 5

Recommendation	Comment
<p>Quality assurance</p> <p>Recommendation No.4 The ANAO recommends that the department review the Quality Assurance Program (QAP) arrangements to facilitate consistent quality of decision-making on a national basis, addressing inter alia the respective responsibilities of the State and National Offices.</p>	<p>DVA reviewed and improved its Quality Assurance arrangements in 1996–97, 1998 and 1999. The report on the most recent Review of Quality Assurance in Compensation was published in July 2000. The associated action plan clarified National and State Office responsibilities for various action items.</p>
<p>Review and better use of medical resources, including financial management</p> <p>Recommendation No.5 The ANAO recommends, as suggested in Report No. 8 1992–93, that DVA establish more adequate financial management controls over medical expenditures.</p>	<p>DVA advised that considerable work was undertaken in 1996–97 on analysis of medical expenditures. This identified deficiencies in the relevant management information systems which were addressed. System changes to CCPS which automatically produce vouchers for medical examination with the correct codes provided better control over medical expenditures. The results of these analyses were provided to DVA State Offices for local management action. However, no further work has been undertaken by DVA at National Office level since then.</p>
<p>Use of specialists and local medical officers</p> <p>Recommendation No.6 The ANAO recommends that DVA regularly investigate the value for money being obtained from levels of use of specialists and local medical officers (LMOs).</p>	<p>This was addressed as part of the work undertaken as described against Recommendation No.5 above. However, there may be scope to update this.</p>

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