



Wellbeing and Compensation Advocates

What are Wellbeing and Compensation Advocates?

Wellbeing and Compensation Advocates (advocate) can be engaged by veterans or family members to assist them to prepare and lodge compensation claims and/or find and use Department of Veterans' Affairs (DVA) payments, and wellbeing supports and services.

Serving members can also engage with DVA directly by using MyService, contacting a Veteran Support Officer, visiting a Veteran Access Network or Services Australia shopfront, or through other nominated representatives to seek information about claims related to their service, seek reviews of decisions, or seek assistance for treatment. For information visit <https://www.dva.gov.au/get-support/advocacy-representation-advice>.

Many ex-service organisations (ESOs) provide free or low-cost advocacy services to assist veterans and families with their compensation claims and wellbeing needs.

ESOs providing these services use advocates that have undertaken training in the Course in Military Advocacy (CiMA) through DVA's Advocacy Training and Development Program (ATDP, www.atdp.org.au). Advocates in ESO advocacy services undertake this specific training to assist veterans and families to lodge claims and/or find and use DVA payments, and wellbeing supports and services.

How do you find a free or low-cost ESO Wellbeing or Compensation Advocate?

Contact details of free or low-cost ESO advocacy services around Australia can be found on the ATDP Advocacy Register website (www.advocateregister.org.au). ESO advocacy services operate under service delivery standards, and have a code of ethics that can be found on the ATDP website.

The ATDP offers ESOs and veteran centres nationally-consistent, recognised training in claims assistance and wellbeing support. It ensures that advocates are authorised by an ESO that helps them meet national training standards in what advice to give to the veteran community. This training includes how to assist the veteran community to:

- lodge claims under veterans' legislation and understand DVA decisions; and
- find and use a wide array of federal, state, and local government and community services, including those that are available from DVA which support wellbeing.





How does a Wellbeing or Compensation Advocate help veterans and families?

Advocates can help veterans and families to:

- Help prepare supporting documents for lodging rehabilitation or compensation claims with DVA.
- Resolve, review, or appeal a DVA decision to the Veterans' Review Board (VRB) or Administrative Appeals Tribunal (AAT), ensuring a fair hearing.
- Seek information and referrals for services which include:
 - support for transitioning to civilian life, including employment services, housing, transport
 - medical, financial, legal and police matters
 - funeral arrangements and bereavement assistance.

What is the difference between ESO and for-profit advocacy services?

ESO advocates trained through the ATDP are experienced and connected with a network of peers. They provide a free or low-cost service to support veterans and their families in navigating the DVA compensation claims process and to find or understand other wellbeing supports. These advocates are not employed by DVA or Defence. They may be members of the veteran community such as veterans and partners of veterans. Advocacy services are not regulated by the Australian Government.

Some for-profit organisations and individuals provide claims assistance on a fee-for-service basis, seek a percentage of any compensation received, or charge a membership fee, which are generally agreed upon by a signed contract. These are independent businesses, and the amount the veteran is charged by for-profit organisations is not regulated by DVA, and may vary. For-profit organisations are not eligible to undertake *CiMA* training through the ATDP.

Choosing to pay for claims assistance has no impact on the time it takes to have claims determined by DVA, and does not guarantee the success of reviews, reconsiderations, or appeals, nor does it ensure that the advocate is more highly qualified or experienced.

Can lawyers assist with DVA claims?

You may also choose to engage a lawyer to assist you with your DVA claim, or when seeking a review of a decision. A lawyer will usually charge you fees. If you choose to engage a lawyer, you should ask them to explain how they calculate the fees which they charge. Although lawyers are not regulated by DVA or Defence, each State and Territory has an organisation which regulates lawyers. If you are unsure whether a person is a qualified lawyer, you can contact the Law Society in your State or Territory. The Law Society will also be able to explain how you can complain about a lawyer, or a person who holds themselves out to be a lawyer.

Legal Aid in each State and Territory is also able to provide free legal advice and assistance to eligible veterans and their families when claiming entitlements from DVA, or seeking reviews of decisions about DVA entitlements. There are restrictions on eligibility for Legal Aid and the rules are not the same in each State or Territory. Please refer to Appendix 1 for more information about Legal Aid for veterans in each State and Territory.

Choosing to engage a lawyer has no impact on the time it takes to have claims determined by DVA, and does not guarantee the success of claims or reviews, reconsiderations, or appeals.



Why is it important for a Wellbeing or Compensation Advocate to have professional indemnity insurance?

Professional indemnity insurance protects veterans and their families. If incorrect or inappropriate advice is given that results in a financial loss, the veteran can make a claim for that loss against the advocate that gave the advice. Providers of professional indemnity insurance generally require the advocate to ensure they are current in their training and knowledge.

What is important to ask a Wellbeing or Compensation Advocate before agreeing to their assistance?

When deciding to seek assistance with a claim there are factors that should be taken into consideration.

- How does the advocate communicate with clients seeking their assistance, and how do they advise of progress on claims or advocate absences?
- How does the advocate manage their risks around the service they provide eg insurance, arrangements if the advocate/organisation ceases to operate?
- If the advocate seeks payment, what is their fee structure and service standards and what are their qualifications?
- How would feedback on the way the advocate works be provided?
- How will the advocate support the veteran or family member to prepare and lodge claims? Do they offer support on repeated occasions or once only? Do they work electronically?
- Would the advocate offer additional services or supports, for example act as support person at Individual Welfare Boards, and how would these be agreed between advocate and veteran or family member?

Important things to consider when choosing a free or low-cost ESO advocate include:

- Sight a Statement of Attainment confirming an advocate's qualification from the *Course in Military Advocacy* relevant to the type of assistance sought
- Sight a current Letter of Authorisation issued by the ESO showing they represent that ESO
- Ask them whether they have professional indemnity insurance
- Only people who are qualified can provide legal and financial advice.



Appendix 1 – Legal Aid Assistance for Veterans and Families

State / Territory Legal Aid Commission	Description of assistance
Legal Aid New South Wales (Veterans' Advocacy Service (VAS))	<p>VAS assists war veterans, former and current serving members of the Defence Forces and their dependants to obtain pensions, compensation and other entitlements administered by the Department of Veterans' Affairs, including advice on the merit of lodging claims and assistance in appealing to the Veterans' Review Board, the Administrative Appeals Tribunal and the Federal Court.</p> <p>This service is available for all veterans and is <u>not</u> subject to a means test.</p> <p>https://www.legalaid.nsw.gov.au/my-problem-is-about/my-right-as-a/veteran</p>
Legal Aid Queensland	<p>Veterans or war widows who are claiming for war-caused disability benefits can get assistance with their cases from Legal Aid Queensland. Veterans or war widows can access free legal help to appeal decisions made about disability entitlements to the Administrative Appeals Tribunal. The veteran must have performed the relevant service in war times or other operations overseas.</p> <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://www.legalaid.qld.gov.au/Find-legal-information/Factsheets-and-guides/Brochures/Free-legal-help-for-war-veterans-the-war-veterans-legal-aid-scheme</p>
Victoria Legal Aid	<p>Victoria Legal Aid (VLA) may make a grant of legal assistance to a war veteran or to a dependant of a war veteran for an appeal to the Administrative Appeals Tribunal (AAT) from certain decisions of the Veterans' Review Board (see below link for more details).</p> <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://www.handbook.vla.vic.gov.au/guideline-5-war-veterans-matters</p>
Tasmania Legal Aid	<p>The Legal Aid Commission may make a grant of legal assistance to an applicant for assistance who is currently serving or ex-service personnel or a dependent of currently serving or ex-service personnel in relation to appeals to the Administrative Appeals Tribunal (AAT) from certain decisions of the Veterans' Review Board (see below link for more details).</p> <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://www.legalaid.tas.gov.au/wp-content/uploads/2022/10/Guidelines-22-NLAP-2020-2025-v3.pdf, p. 42</p>
Legal Aid ACT	<p>The Legal Aid Commission may make a Grant of Legal Assistance to an applicant for assistance who is a war veteran or a dependent of a war veteran in relation to appeals to the Administrative Appeals Tribunal (AAT) from certain decisions of the Veterans' Review Board (see below link for more details) if any of the below apply to the case:</p> <ul style="list-style-type: none"> • the veteran may incriminate themselves • complexity • requires significant medical evidence • the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage • the Commission decides it involves an important or complex questions of law. <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://www.legalaidact.org.au/sites/default/files/files/publications/la_act_guidelines_aug_2017.pdf, Guideline 5, p. 35</p>



<p>Legal Services Commission South Australia</p>	<p>The Legal Services Commission may make a grant of legal assistance to an applicant for assistance who is a war veteran or a dependent of a war veteran in relation to appeals to the Administrative Appeals Tribunal (AAT) from certain decisions of the Veterans' Review Board (that must be war caused (see below link for more details) if any of the below apply to the case:</p> <ul style="list-style-type: none"> • the veteran may incriminate themselves • complexity • requires significant medical evidence • the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage • the Commission decides it involves an important or complex questions of law. <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://lsc.sa.gov.au/cb_pages/commonwealth_guidelines_civil_law.php, Guideline 5</p>
<p>Legal Aid Western Australia</p>	<p>The Legal Aid Commission <u>may</u> make a Grant of Legal Assistance to an applicant for assistance who is a war veteran or a dependant of a war veteran in relation to appeals to the Administrative Appeals Tribunal (AAT) from certain decisions of the Veterans' Review Board (see below link for more details) if any of the below apply to the case:</p> <ul style="list-style-type: none"> • the veteran may incriminate themselves • complexity • requires significant medical evidence • the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage • the Commission decides it involves an important or complex questions of law. <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://www.legalaid.wa.gov.au/sites/default/files/National_Commonwealth_Guide_lines.pdf, Guideline 5, p. 21</p>
<p>Northern Territory Legal Aid Commission</p>	<p>The Commission may make a Grant of Legal Assistance to an applicant for assistance who is a war veteran or a dependent of a war veteran in relation to appeals to the Administrative Appeals Tribunal (AAT) from certain decisions of the Veterans' Review Board (see below link for more details), if any of the below apply to the case:</p> <ul style="list-style-type: none"> • the veteran may incriminate themselves • complexity • requires significant medical evidence • the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage • the Commission decides it involves an important or complex questions of law. <p>This assistance is <u>not</u> subject to a means test, although it is subject to a merits test.</p> <p>https://www.legalaid.nt.gov.au/wp-content/uploads/Chapter-4-Guidelines.pdf, Guideline 5, p. 41</p>