

The Auditor-General
Audit Report No.58 2002-03
Performance Audit

**Veterans' Appeals Against Disability
Compensation Decisions
Follow-up Audit**

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

Australian National Audit Office

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of Australia 2003

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Canberra ACT
26 June 2003

Dear Mr President
Dear Mr Speaker

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

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

A handwritten signature in black ink, appearing to read 'Oliver Winder'.

Oliver Winder
Acting 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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Contents

Abbreviations and Glossary	6
Abbreviations	6
Glossary	6
Summary and Recommendations	11
Summary	13
Introduction	13
Disability compensation appeals	13
Audit Report No.29 2000–01	14
Audit objective and methodology	14
Key Findings	16
Progress against the implementation of recommendations from ANAO’s 2001 audit	16
Audit conclusion	18
The Agency’s response to the report	18
Recommendation	19
Audit Findings and Conclusions	21
1. Introduction	23
An overview of disability compensation	23
Previous audit coverage	27
<i>Review of Veterans’ Appeals Against Disability Compensation Entitlement Decisions, Audit Report No.29 2000–01</i>	27
The follow-up audit	28
2. Department of Veterans’ Affairs	29
Recommendation 1 of Audit Report No.29 2000–01	29
Additional DVA information provided in May 2003	32
Recommendation 2 of Audit Report No.29 2000–01	33
Recommendation 3 of Audit Report No.29 2000–01	35
Additional DVA information provided in May 2003	36
Recommendation 4 of Audit Report No.29 2000–01	37
Additional DVA information provided in May 2003	38
ANAO Recommendation from this follow-up audit	39
3. Veterans’ Review Board	40
Introduction	40
Recommendation 1 of Audit Report No.29 2000–01	41
Recommendation 4 of Audit Report No.29 2000–01	47
Appendices	49
Appendix 1: DVA and VRB Response to Recommendations of Audit Report No.29 of 2000–01	51
Appendix 2: Data on the Appeals Process	54
Index	55
Series Titles	57
Better Practice Guides	62

Abbreviations and Glossary

Abbreviations

AAT	Administrative Appeals Tribunal
ANAO	Australian National Audit Office
BEST	Building Excellence in Support and Training
DVA	Department of Veterans' Affairs
EDM	Electronic Document Management
ESO	Ex-Service Organisation
NCAR	National Case Appraisal Registrar
QA	Quality Assurance
QUASARS	Quality Assurance Sampling Assessment and Report System
RC	Repatriation Commission
SoP	Statements of Principles
TIP	Training and Information Program
VEA	<i>Veterans' Entitlements Act 1986</i>
VRB	Veterans' Review Board

Glossary

Building Excellence in Support and Training	The Building Excellence in Support and Training (BEST) grants program was announced in the 1999–2000 Budget, with a funding allocation of \$5.6 million over four years. The BEST program provides monetary support and IT equipment to assist Ex-Service Organisations (ESOs) in their pensions, advocacy and welfare efforts. A review of BEST was completed and reported in October 2003.
Certificate of Readiness	Notification given to Veterans' Review Board (VRB) that the veteran, and/or their representative, is ready for a Board hearing.

Department of Veterans' Affairs	Department of Veterans' Affairs (DVA) provides administrative support to the Repatriation Commission in discharging its responsibilities to veterans and other entitled people. DVA's Internet site < http://www.dva.gov.au >.
Disability pension	A Disability pension is paid under the <i>Veterans' Entitlements Act 1986</i> (VEA) as compensation for incapacity from disabilities (or death) that have been accepted as being caused or aggravated by eligible service. Eligible service includes service in conflicts such as WWII, Korea and Vietnam, certain periods of declared hazardous and peacekeeping service, and peacetime service from 1972 to 1994. Where a veteran's death is accepted, a war widow's or orphan's pension may be paid. Additional information on the disability pension is found at Internet site < http://www.dva.gov.au >.
Electronic Document Management	Facilities that provide for the storage of paper documents on to electronic media and also allows subsequent retrieval, processing and archival of the electronic documents.
Entitlement	Entitlement refers to determining whether a disability is accepted as war-caused, or defence caused, and the veteran therefore is entitled to compensation.
Ex-Service Organisations	The department maintains a policy of partnership with the Ex-Service Organisations (ESO). Deputy Commissioners in the State Offices are encouraged to develop close relationships with local Ex-Service Organisations. This close liaison with the veteran community is essential to ensure that the views of veterans and their dependants are being heard and their needs are being met.
External review	Review by VRB, Administrative Appeals Tribunal (AAT) or by the Federal/High Courts.
Quality Assurance	A systematic approach to monitoring the quality of key processes with the aim of ensuring uniform standards and improving procedures. DVA's Compensation and Support Division's new Quality Assurance Sampling Assessment and Reporting System (QUASARS) was implemented on 14 January 2002.
Quality Decisions Every Time	DVA's training program designed to improve compensation decision-making skills.

Reasons for Decision	'Reason for Decision' are letter templates, produced by DVA's IT system (Compensation Claims Processing System), which are used by decision makers to facilitate the preparation of letters to veterans. DVA revised the 'Reasons for Decision' letter templates, in October 2001, to make them clearer and easier for the veteran to understand.
Repatriation Commission	The Repatriation Commission is responsible under the <i>Veterans' Entitlements Act 1986</i> for the granting of pensions, allowances and other benefits.
's31' Review	Review of primary decisions by departmental officers, acting as delegates of the Repatriation Commission. These reviews are conducted under s31 of the VEA.
'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 copy of the relevant evidence used to make the primary decision.
Statements of Principles	Statements of Principles (SoP) are legally binding instruments determined by the Repatriation Medical Authority (RMA) under the <i>Veterans' Entitlements Act 1986</i> . They are used by DVA to assess pension entitlement. A full alphabetical SoP listing is found on DVA's Internet site < http://www.dva.gov.au >.
Training and Information Program	The Training and Information Program (TIP) is administered jointly by DVA and Ex-Service Organisation (ESO) representatives. It provides training and information to ESO advocates who assist veterans and their dependants to prepare applications for benefits under the <i>Veterans' Entitlements Act 1986</i> and to prepare appeals against decisions of the Repatriation Commission (RC). During 2001–02, TIP funding of \$650 000 supported 231 training courses nationally, with approximately 3200 course participants.

Veterans' Appeals	<p>Veterans (or their dependants in death cases) may appeal to the Veterans' Review Board (VRB) against decisions made by the RC or its delegates.</p> <p>The normal subjects of appeal are:</p> <ul style="list-style-type: none"> • the refusal to accept a disability (or death) as being caused or aggravated by eligible service; and • the assessment of the rate of disability pension.
	<p>Prior to hearing by the VRB, delegates of the RC review the decision in question under s31 of the VEA.</p>
	<p>Having regard to the veteran's reasons for appeal, and to any further information provided by the veteran, the original decision can be amended. The veteran then has the option of accepting the amended decision or proceeding with the appeal to the VRB.</p>
	<p>The final avenue of appeal on the merits of a claim is the Administrative Appeals Tribunal (AAT). Cases may also be appealed to the Federal Court and High Court on points of law.</p>
<i>Veterans' Entitlements Act 1986</i>	<p>An Act to provide for the payment of pensions and other benefits to, and to provide medical and other treatment for, veterans and their dependants.</p>
Veterans' Review Board	<p>The Veterans' Review Board (VRB) is an independent statutory body. Its role is to resolve appeals by those veterans and their dependants who are dissatisfied with the Repatriation Commission's decisions on their disability pension. Additional information can be found on the VRB Internet site <http://www.vrb.gov.au>.</p>

Summary and Recommendations

Summary

Introduction

1. The disability pension compensates veterans, war widows, orphans and dependants for loss of physical and mental well-being resulting from war or defence service. The Department of Veterans' Affairs (DVA) provides administrative support to assist the Repatriation Commission to discharge its responsibilities under the *Veterans' Entitlements Act 1986* for the granting of disability compensation entitlements. During 2001–02, DVA provided \$2.5 billion for disability compensation to 318 850 disability and war widow/widower pensioners. The Parliament appropriated \$2.6 billion for this purpose in 2002–03 and \$2.8 billion in 2003–04.
2. The majority of disability pensioners are second world war veterans, with other substantial portions being Vietnam war veterans and serving members. The majority of disability pensioners are over 75 years of age.
3. ANAO's Report No.29 2000–01, *Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions*, reported to Parliament on DVA's and the Veterans' Review Board's (VRB's) management of the review of decisions for disability compensation. This follow-up audit was conducted to inform Parliament of the progress made by DVA and VRB in implementing recommendations in the earlier ANAO report.

Disability compensation appeals

4. In brief, to qualify for a compensation pension a veteran must have eligible war service and a disability related to that service. The amount of the pension is determined by the degree of disability suffered by the veteran. Veterans, or their dependants, may claim disability pensions for more than one medical condition. Appeals by veterans, or their dependants, can be focused on whether:
 - their service is eligible service;
 - the disability is related to the eligible service; and
 - the assessment of the degree of the disability is correct.
5. DVA, on behalf of the Repatriation Commission, and VRB share responsibility for the disability compensation appeal system. 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 the

decision, the applicant may appeal to the VRB. The final avenue of merit appeal is the Administrative Appeals Tribunal (AAT). Cases may also be appealed to the Federal Court and the High Court on points of law.

Audit Report No.29 2000–01

6. The objective of Audit Report No.29 was to examine the management by DVA and VRB of the review of decisions by the Repatriation Commission on veterans' claims for disability compensation.

7. The previous report concluded that¹:

DVA and VRB were 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 claims 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.

8. The ANAO made four recommendations. DVA and VRB agreed with all recommendations².

Audit objective and methodology

9. The objective of this follow-up audit was to assess the extent to which DVA and the VRB had implemented the four recommendations of Report No.29 2000–01, taking into account any changed circumstances, or new administrative issues, affecting implementation of these recommendations.

10. The primary focus of this audit was on the National Offices of DVA and the VRB. However, the ANAO also visited two State Offices (NSW and Victoria) of DVA and the VRB.

¹ ANAO Audit Report No.29 2000–01, *Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions*, Canberra, pp. 14–15.

² Refer to Appendix 1.

11. The ANAO wrote to DVA and the VRB at the commencement of the audit to request information on the implementation of the recommendations of the 2001 audit. Following receipt of DVA's and the VRB's response, the ANAO interviewed key personnel in DVA's and VRB's Head Office, NSW and Victoria State Offices. ANAO also reviewed relevant DVA and VRB documents.

Key Findings

Progress against the implementation of recommendations from ANAO's 2001 audit

Recommendation 1 of Audit Report No.29 of 2000–01

12. 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 appeals at the earliest possible stage. These strategies could include making 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.

13. The ANAO concluded that DVA had partially implemented this recommendation. DVA had taken steps to improve, at the primary claims assessment level, the quality of investigation and the documentation of reasons for decisions. However, DVA had not articulated any formal strategies to encourage early settlement of appeals. VRB had implemented this recommendation, through strategies developed to encourage early settlement of appeals. More comprehensive data, over a longer period, are necessary before conclusions can be drawn on trends in the overall costs of review.

Recommendation 2 of Audit Report No.29 of 2000–01

14. The ANAO recommends that DVA 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 of evidence reflects VRB documentation checklists; and
- investigate options for using scanning technology to minimise the resources currently allocated to photocopying of reports of the evidence.

15. The ANAO concluded that DVA had implemented this recommendation. DVA's 'Reasons for Decision' initiative had improved the documentation of

evidence used in reaching the primary decision. DVA review officers have regard to VRB checklists in the preparation of s137 Reports. DVA had also investigated the use of scanning technology as part of its Electronic Document Management (EDM) project. The Department concluded that the preparation of s137 Reports could be facilitated by the use of scanning technology.

Recommendation 3 of Audit Report No.29 of 2000–01

16. The ANAO recommends that, in order to minimise the risks to the timeliness and quality of review which arises 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 providing greater confidence and accountability to all stakeholders.

17. The ANAO concluded that DVA had partially implemented this recommendation. DVA is yet to introduce medium to long term strategic planning for advocacy support. It has made progress in the identification of advocacy support issues, through its Building Excellence in Support and Training (BEST) Review.

Recommendation 4 of Audit Report No.29 of 2000–01

18. 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.

19. The ANAO concluded that DVA had partially implemented this recommendation. DVA has considered the issue of ensuring that the performance information enables accurate assessment of performance in the appeal system. For external reporting of the performance of the appeals system, DVA has agreed to use VRB statistics on workloads. However, DVA has yet to agree with the VRB on a method to align internal counting of appeal cases and decisions between organisations. DVA is committed to conduct a review of counting methods to identify differences and to make changes as appropriate. The ANAO concluded that the VRB had implemented Recommendation 4. We consider that no further action is required by the VRB until DVA has conducted a review of counting methods.

Audit conclusion

20. The ANAO concluded that DVA had fully implemented one recommendation and partially implemented the remaining three. The ANAO also concluded that the VRB had implemented both recommendations applicable to it.

21. The ANAO concluded that DVA's and VRB's progress in implementing the recommendations had contributed to substantial reductions in the time necessary to resolve appeals against disability pension decisions.

The Agency's response to the report

22. DVA agreed with the ANAO's assessment of progress on the four recommendations. With regard to the new recommendation proposed in the report, DVA and VRB agreed with the recommendation. The VRB recognised the need for continued cooperation with DVA in relation to a range of aspects of the appeal process.

Recommendation

The ANAO made one recommendation from this follow-up audit. The recommendation and a summary of agencies' responses are set out below. More detailed responses are shown in the body of the report.

Recommendation No.1
Para. 2.44 The ANAO recommends that DVA and VRB, in order to facilitate veterans' compensation appeals, and in the context of their strategic planning in this area, encourage all veterans and their dependants to seek Ex-Service Organisation advocacy support.

DVA's response: Agreed.

VRB's response: Agreed.

Audit Findings and Conclusions

1. Introduction

This chapter provides an overview of disability compensation entitlement decisions and the appeal process. It outlines the audit objective, focus and methodology.

An overview of disability compensation

1.1 The objectives of the DVA's disability compensation sub-program are:

- to compensate eligible veterans and other eligible people for the loss of physical or mental well-being resulting from incapacity caused by eligible war or defence 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 the result of eligible war or defence service.³

1.2 The Department of Veterans' Affairs (DVA) provides administrative support to assist the Repatriation Commission to discharge its responsibilities under the *Veterans' Entitlements Act 1986* (the VEA) for the granting of disability compensation entitlements. During 2001–02, DVA provided \$2.5 billion in disability compensation to 318 850 veterans, veteran's dependants, war widow(er)s and children of incapacitated veterans. The Parliament appropriated \$2.6 billion for this purpose in 2002–03 and \$2.8 billion in 2003–04.

1.3 The majority of veterans in receipt of the disability pension are second world war veterans as can be seen in Table 1. The length of time between the veteran's service and the lodging of a claim for the disability pension can be in excess of 50 years. Such lengthy periods can present DVA with difficulties in determining the veteran's entitlement.

³ DVA Annual Report 2001–02, Canberra, 2002, p. 46.

Table 1**Veteran disability pensioners by conflict as at 30 June 2002**

Conflict	Number	%
First World War	3	0.0
Second World War	96 788	60.7
Korea and Malayan Forces	7 107	4.4
Far East Strategic Reserve	2 690	1.7
Vietnam	27 558	17.3
Gulf War	162	0.1
East Timor	401	0.3
Peace-keeping Forces	803	0.5
Serving Member	23 497	14.7
Not Stated	416	0.3
All Wars and Conflicts	159 425⁴	100.0

Source: DVA.

1.4 The majority of veterans are in the 75 to 84 years of age bracket as shown in Table 2.

Table 2**Disability pensioners by age group as at 30 June 2002**

Age	Number	%
Under 55	31 138	19.5
55 to 59	15 446	9.7
60 to 64	5 915	3.7
65 to 69	4 639	2.9
70 to 74	6 189	3.9
75 to 79	42 434	26.6
80 to 84	38 431	24.1
85 to 89	12 500	7.8
90 or over	2 715	1.7
Unknown	18	0.1
Total	159 425	100.0

Source: DVA.

1.5 The medical conditions claimed by veterans and their dependants are many and varied. The ten most commonly accepted medical disabilities are shown in Table 3.

⁴ There are 318 850 veterans, veteran's dependants, war widow(er)s and children of incapacitated veterans receiving the disability pension. Veterans comprise 50 percent (159 425) of disability pensioners.

Table 3**Ten most commonly accepted disabilities as at 30 June 2002**

	Disability	Accepted	Rejected	Acceptance rate %
1	Sensori-neural hearing loss	7 467	104	99
2	Tinnitus	2 850	113	96
3	Post traumatic stress disorder	2 205	404	85
4	Solar keratosis	2 099	265	89
5	Chronic bronchitis and emphysema	1 987	408	83
6	Cardiovascular (Ischaemic heart disease)	1 840	950	66
7	Non-melanotic malignant neoplasm of the skin	1 804	244	88
8	Acquired cataract	1 738	105	94
9	Osteoarthritis	1 344	2 426	36
10	Tinea	1 009	59	94

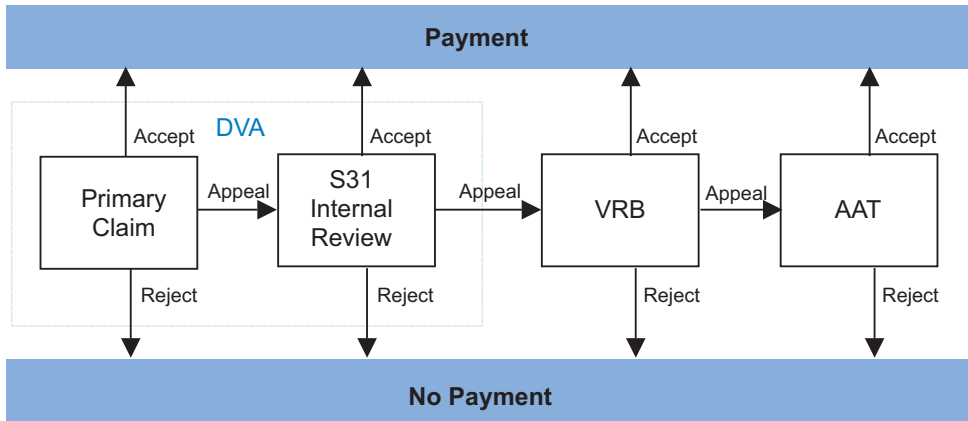
Source: DVA Annual Report 2001–02, Canberra, 2002, p. 151.

1.6 Appeals by veterans, or their dependants, can be focused on whether:

- their service is eligible service under the VEA;
- the disability is related to the eligible service; and
- the assessment of the degree of the disability is correct.

1.7 Responsibility for the disability compensation appeal system is shared by DVA and the VRB. The first level of review of disability compensation decisions is internal review by the Repatriation Commission. Under s31 of the VEA the Commission has the authority to review its own decisions. If dissatisfied with the decision, the applicant may appeal to the Veterans' Review Board. The final avenue of merit appeal is the Administrative Appeals Tribunal (AAT). Cases may also be appealed to the Federal Court and the High Court on points of law.

Figure 1.1
Overview of the appeals system



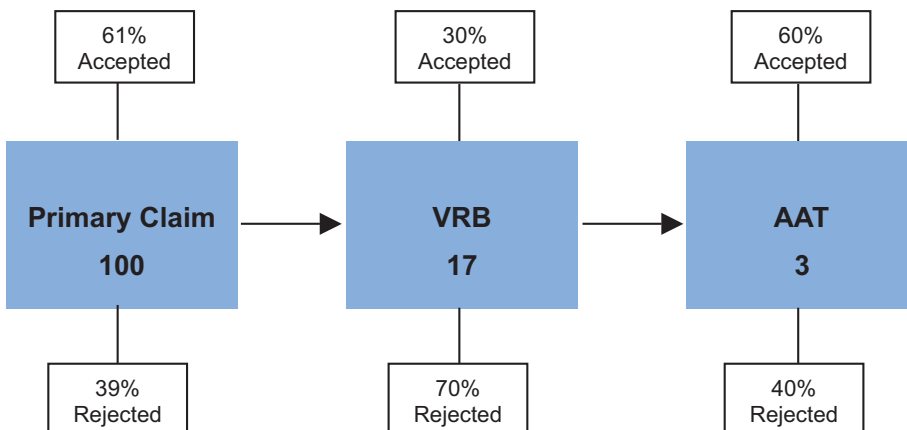
Note: DVA provides administrative support to the Repatriation Commission in discharging its responsibilities to veterans and other entitled people.

Source: ANAO Audit Report No.29 2000-01, p. 48.

1.8 In 2001-02, DVA accepted 61 per cent of primary claims for disability compensation⁵. Figure 1.2 shows that for every 100 primary claims completed there were:

- 17 appeals to the Veterans' Review Board, 30 per cent of which were subsequently accepted; and
- 3 further appeals to the AAT, 60 per cent of which were subsequently accepted.

Figure 1.2
Flow of appeals (2001-02)



Source: Data supplied by DVA as at May 2003.

⁵ DVA Annual Report 2001-02, Canberra, 2002, p. 150.

Military Compensation Bill

1.9 A new bill for a compensation scheme for members of the Australian Defence Force will be introduced in the Spring Parliamentary Sittings 2003. The new Act, if passed, will cover all claims for injuries/diseases related to service rendered from the commencement date of the new Act. If the claim is for an injury/disease related to service rendered prior to the new Act, it will be covered under the existing provisions. There may also be some amendments to the existing provisions under the *Veterans' Entitlements Act 1986* and the *Safety Rehabilitation and Compensation Act 1988*.

Recent review

1.10 There has been a review of veterans' entitlements (Clarke Report⁶), which has made recommendations to the Government on the administration of disability pensions.

Previous audit coverage

1.11 Previous audit reports containing information relevant to disability compensation include the following:

- Audit Report No.29 2000–01, *Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions*;
- Audit Report No.3 1996–97, *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*; and
- Audit Report No.8 1992–93, *Compensation Pensions to Veterans and War Widows*.

Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions, Audit Report No.29 2000–01

1.12 The objective of Audit Report No.29 was to examine the management by DVA and VRB of the review of decisions by the Repatriation Commission on veterans' claims for disability compensation.

⁶ Clarke J, *Report of the Review of Veterans' Entitlements*, January 2003, Commonwealth of Australia, Canberra. For additional information refer to <<http://www.veteransreview.gov.au>>.

1.13 The previous report concluded that⁷:

DVA and VRB were 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 claims 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.

1.14 The ANAO made four recommendations. DVA and VRB agreed with all recommendations⁸.

The follow-up audit

Audit objective and focus

1.15 The objective of this follow-up audit was to assess the extent to which DVA and the VRB had implemented the four recommendations of Report No.29 2000–01, taking into account any changed circumstances, or new administrative issues, affecting implementation of these recommendations.

1.16 The primary focus of this audit was on the National Offices of DVA and VRB. However, the ANAO also visited two State Offices of DVA and VRB to determine whether the recommendations from the 2001 audit had been implemented.

Audit methodology

1.17 The ANAO wrote to DVA and the VRB at the commencement of the audit to request information on the implementation of the recommendations of the 2001 audit. Following receipt of DVA's and the VRB's response, the ANAO interviewed key personnel in DVA's and VRB's Head Office, NSW and Victoria State Offices. ANAO also reviewed relevant DVA and VRB documents.

1.18 The follow-up audit was conducted in accordance with ANAO Auditing Standards at an estimated cost of \$135 000.

⁷ ANAO Audit Report No.29 2000–01, pp. 14–15.

⁸ Refer to Appendix 1.

2. Department of Veterans' Affairs

This chapter outlines in more detail DVA's implementation of the recommendations contained in Audit Report No.29 2000–01 'Review of Veterans' Appeals Against Disability Compensation Entitlement Decisions'. The ANAO found that DVA had fully implemented one recommendation and partially implemented the remaining three recommendations.

Recommendation 1 of Audit Report No.29 2000–01

Previous audit observations

2.1 In the previous report, the ANAO found that there are many factors that influence the costs of processing veterans' appeals. However, there was a general view among DVA, VRB and Ex-Service Organisation (ESO) stakeholders that the increase in costs of review was likely to have occurred as a result of the structure of the appeals system. For instance, appeals to the AAT attract legal aid and up to \$2500 in disbursements for such items as medical examinations. This assistance can be an incentive for obtaining new evidence at the highest and most expensive level of review. As a result, there was 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 was perceived to provide a greater chance of a decision favouring the veteran.

2.2 Internal review was a key means of reducing the level of applications for external review and thus the cost of administering decisions overall. The earlier report concluded that the larger number of internal reviews had contributed to reducing the level of appeals to VRB as a percentage of all primary decisions. Also, DVA's increased level of internal review activity, undertaken at a relatively modest cost, had prevented increases in external review at VRB and AAT by resolving more claims at the lower and less costly level of internal review.

2.3 As well, the earlier report concluded that there was 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 by obtaining better evidence at an earlier stage of the process, preferably at the primary level but at a minimum at the internal review level.

2.4 Further, the ANAO identified advantages in DVA developing strategies to encourage settlement of an appeal at the earliest possible stage.

Recommendation 1 of Audit Report No.29 2000–01

2.5 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.

2.6 The ANAO concluded that DVA had partially implemented this recommendation. DVA had taken steps to improve, at the primary claims assessment level, the quality of investigation and the documentation of reasons for decisions. However, DVA had not articulated any formal strategies to encourage early settlement of appeals. The ANAO also concluded that more comprehensive data, over a longer period, are necessary before conclusions can be drawn on trends in the overall costs of review.

Minimising the level of appeals

2.7 The ANAO found that DVA had initiated a number of new programs and revised a number of existing programs to improve the quality of investigation and reasons for decision at the primary level. These include:

- introducing the new 'Reasons for Decision' initiative, during 2001, to improve standardised letters informing veterans of the outcomes of primary decisions. The decision letters are now clearer, making it easier for veterans and their dependants to understand the rationale for DVA decisions;
- developing a 'Quality Decisions Every Time' (QDET) training program to improve DVA's advice to the veteran with regard to the disability compensation primary claim decision. This training was carried out in all DVA State Offices in October and November 2001;
- revising the existing medical concepts training program. This national initiative is supplemented by State-based training. For example, NSW has organised training courses on the most commonly claimed medical conditions. The Victoria State Office arranges training and/or information sessions when new or amended Statements of Principles (SoPs) are released; and

- reviewing and enhancing its Quality Assurance (QA) program. DVA conducted a validation exercise and reviewed its QA program for Disability Compensation in November 2001. This led to a new Disability Compensation Branch QA Sampling Assessment and Report System (QUASARS) from April 2002. This new QA program covers s31 Reviews and s137 Reports. QUASARS was developed to assist in the sampling, assessment and reporting of QA programs in the Disability Compensation Branch.

2.8 Table 4 shows a 3.7 per cent reduction in the number of primary decisions made over the previous two financial years—principally because the veteran population is declining. DVA's internal review activity has increased slightly. VRB activity mirrors the rate of reduction in primary decisions. Table 4 also shows that AAT appeals have reduced by over fourteen per cent. As DVA has only recently implemented the initiatives described above, ANAO considers that any trends in appeal frequency will become clearer over the next few years.

Table 4

Number of new disability compensation appeals

Activity	2000–01	2001–02	Change	
				%
Primary Decision ¹	55 124	53 101	-2 023	-3.7
S31 DVA Internal Review	5 031	5 086	55	1.1
VRB	6 548	6 336	-212	-3.2
AAT	1 612	1 378	-234	-14.5

Source: DVA.

1 - Included to provide a base against which movements in the number of appeals can be assessed. Refer to Appendix 2 for additional information.

Strategies for early settlement of appeals

2.9 At the commencement of this audit, DVA indicated that it had not acted upon the second element of the recommendation. However, the ANAO noted DVA's assertion that an increase in s31 internal reviews, following an unsuccessful primary decision, was intended to reduce the number of appeals proceeding to the VRB.

Overall costs of review

2.10 The ANAO sought information on costs associated with the various review activities. Detailed costing information was not readily available from DVA. In particular, DVA was unable to reliably identify discrete costs associated with the s31 review process or the full range of AAT administration costs.

2.11 Table 5 shows the average administrative costs per appeal case for DVA and the VRB for the previous two financial years. While the number of primary decisions has reduced by 3.7 per cent, the average cost of primary decisions has increased by 7.3 per cent. The ANAO notes that, while DVA has recently introduced a number of initiatives designed to improve the quality of primary decision-making, there is a cost associated with such activity. The ANAO considers that it is too early to draw firm conclusions about the impact of these initiatives on future costs.

Table 5
Average administrative costs per appeal case

Activity	2000–01	2001–02	Change	
	\$	\$	\$	%
Primary Decision	477	512	35	7.3
DVA Internal Review	828	802	-26	-3.1
VRB	901	996	95	10.5

Source: DVA.

DVA's internal review includes both s31 Review activities and preparation of s137 Reports.

The average administrative costs for the AAT are not available.

Refer to Appendix 2 for additional information.

2.12 The ANAO suggested in Audit Report No.29 2000–01 that disaggregation of the costs of s31 Reviews, and preparation of s137 Reports, could provide better management information for DVA.⁹ The ANAO further suggests that DVA work with the VRB and the AAT to review how disability compensation appeal costs are collected and monitored. This monitoring of costs should not compromise the independence of the VRB and the AAT. Comprehensive cost information will enable more informed analysis of policy initiatives. In order to track the overall cost of review and ensure timely outcomes, one agency should take overall responsibility for collecting costing information for the entire disability compensation appeals process. This would be consistent with DVA's overall policy advisory role.

Additional DVA information provided in May 2003

2.13 DVA supports the ANAO's assessment that Recommendation 1 has only been partially implemented. The recommendation was discussed with National and State Office Disability Compensation Managers, and the Department considers that the s31 Review process is effective in providing veterans the opportunity to present new information that may assist their claim and hence remove the need to proceed to a VRB hearing. Other options for encouraging earlier settlement of appeals may include:

⁹ ANAO Report No.29 2000–01, p. 42.

- on-going reviews, in consultation with Ex-Service Organisations, to identify any enhancements to the current s31 Review process;
- undertaking a review to analyse the reasons for claims moving to an appeal;
- researching the development of a process to provide formal feedback to Ex-Service Organisations regarding the quality of represented claims; and
- working with the new VRB National Case Appraisal Registrar to identify areas of the appeal process that may be improved.

Recommendation 2 of Audit Report No.29 2000–01

Previous audit observations

2.14 Before the appeal is passed to the VRB, DVA is required to prepare a report in accordance with s137 of the *Veterans' Entitlements Act 1986* on the evidence considered by the primary decision maker. Copies of this report are provided to the VRB, the veteran and the veteran's representative if one is nominated.

2.15 In the previous audit, the ANAO found that DVA had not yet achieved the timeliness targets set out in the VEA for its reports on evidence to the VRB and to applicants for the purposes of the VRB's external review. DVA had made significant progress in improving the quality and timeliness of these reports over the previous 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
- QA checks of these reports.

2.16 As well, the ANAO proposed that DVA investigate the options available from use of scanning technologies that may enable more efficient reproduction and dissemination of records to all parties.

Recommendation 2 of Audit Report No.29 2000–01

2.17 The ANAO recommends that DVA 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.

2.18 The ANAO concluded that DVA had implemented this recommendation. DVA's 'Reasons for Decision' initiative had improved the documentation of evidence used in reaching the primary decision. DVA review officers had regard to VRB checklists in the preparation of s137 Reports. DVA had also investigated the use of scanning technology as part of its Electronic Document Management (EDM) project. The Department concluded that the preparation of s137 Reports could be facilitated by the use of scanning technology.

Documenting primary decisions

2.19 DVA had recently introduced its 'Reasons for Decision' initiative to improve the documentation of the outcome of primary decisions. DVA claims assessors now clearly identify the evidence upon which primary decisions are made. This revised practice applies to all primary decisions—those resulting in acceptance of a claim and those rejected.

2.20 DVA and VRB, in both Sydney and Melbourne¹⁰, commented that there had been a substantial improvement in the compilation of s137 Reports compared to the situation two years ago. Overall, the s137 Report documentation now contains all the relevant documentation.

2.21 VRB staff inspect the material provided by DVA to ensure its adequacy and relevance to the matters under review. If material is incomplete, the VRB refers cases back to DVA for additional information. ANAO noted that the rate of such referral had declined significantly, although quantitative information was not available.

¹⁰ As part of this follow-up audit, ANAO conducted fieldwork in these two DVA State Offices.

Use of VRB documentation checklists

2.22 ANAO confirmed that review officers in DVA State Offices¹¹ use VRB documentation checklists in the preparation of s137 Reports. In addition, DVA (Vic) conducted training in the statutory interpretation of the *Veterans' Entitlements Act 1986*, aimed at improving the quality of investigations. The Sydney and Melbourne VRB Offices informed ANAO that the quality and comprehensiveness of s137 Reports had improved.

Document scanning technology

2.23 The ANAO found that DVA had investigated the use of scanning technology as part of its Electronic Document Management (EDM) project. DVA conducted EDM trials during 2001, which identified that the disability compensation program was suited to the use of scanning techniques.

2.24 The advantages of electronic s137 Reports, according to DVA, are:

- some reduction in production costs (staff effort);
- potential for electronic transmission to VRB and representative; and
- easy retrieval to support production of a s37 AAT Report if subsequently required, or to assist preparation of a further s137 Report for another application to the VRB.

2.25 DVA had completed a business analysis, in March 2003, to identify requirements for using EDM technology for s137 Reports.

Recommendation 3 of Audit Report No.29 2000–01

Previous audit observations

2.26 Representatives, drawn from various ESOs, play an essential part in the disability compensation scheme in helping veterans to prepare their compensation claims and, where necessary, helping veterans to prepare their appeals and representing veterans before the VRB and AAT as required.

2.27 In the previous report, the ANAO found that the diminishing availability of volunteers and the variable quality of advocacy services represented a risk to the efficiency and effectiveness of the appeals process. DVA was 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, had taken action to address the issue. However, the ANAO found no evidence that DVA had any formal strategy or planning which would allow

¹¹ Information provided by DVA Offices in Western Australia, South Australia and Tasmania.

a strategic approach to managing this risk. The ANAO concluded that such a plan was required if the risk were to be managed effectively over the longer term.

Recommendation 3 of Audit Report No.29 2000–01

2.28 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 providing greater confidence and accountability to all stakeholders.

2.29 The ANAO concluded that DVA had partially implemented this recommendation. DVA is yet to introduce medium to long term strategic planning for advocacy support. It has made progress in the identification of advocacy support issues, through its BEST Review.

Medium to long term planning

2.30 The department employed a firm of consultants to review DVA's BEST Program. This review commented on veteran representation in the appeals process. In particular, it recognised the important role played by experienced, trained representatives in raising the standard of compensation appeal applications.

2.31 Training of these advocates is provided through DVA's TIP program. TIP provides four levels of training and information to ESO advocates to assist veterans and their dependants in appealing against decisions of the Repatriation Commission.

2.32 DVA should consider, as part of its medium to long-term advocacy planning, whether it is appropriate to set competency accreditation standards for advocates. The ANAO notes that improving the competency levels of advocates will be a challenge for DVA because of the voluntary nature of the work of many advocates.

Additional DVA information provided in May 2003

2.33 DVA supports the ANAO's assessment that Recommendation 3 has been partially implemented. The department has commenced the development of a strategic paper that addresses the issue of future arrangements for the support of the ex-service community in their on-going advocacy role within the veteran

community. DVA proposes to seek involvement from the Ex-Service Organisations to ensure that any future arrangements are mutually agreeable.

Action in the shorter term

2.34 There is a higher probability of veterans winning their appeal when a representative assists them. Around 60 per cent of represented claims are successful. The ANAO noted that both DVA and the VRB provide general publicity about the availability of veteran representation. For example, DVA's Disability Pension Claim Form encourages potential claimants to seek the assistance of an ESO in lodging a claim¹², and the VRB's Internet site¹³ contains a listing, by State, of organisations that represent veterans to the VRB at no cost. However, the ANAO considers that there is additional scope for both DVA and the VRB to further encourage veterans and their dependants to seek ESO representation. This need not wait on the completion of the strategic plan envisaged in Recommendation 3. The recommendation arising from this follow-up audit is included at the end of this chapter.

Recommendation 4 of Audit Report No.29 2000–01

Previous audit observations

2.35 The ANAO found, in the previous audit, that DVA and VRB recorded the number of appeal cases differently. Appeal rates reported by VRB differed from those collected by DVA management information systems because, where there were a number of disabilities claimed, VRB counted 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 was collected over four 13-week periods while DVA's was based on the calendar year. This made accurate comparison of performance information difficult.

2.36 The ANAO found that consistent counting and interpretation of data by DVA and VRB on appeal cases would improve the management of some of DVA's activities that support internal and external reviews.

¹² Similar wording is included in formal processes outlined in the Repatriation Commission protocols for s31 Reviews.

¹³ Internet site <<http://www.vrb.gov.au>>.

Recommendation 4 of Audit Report No.29 2000–01

2.37 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.

2.38 The ANAO concluded that DVA had partially implemented this recommendation. DVA had considered the issue of ensuring that the performance information enables accurate assessment of performance in the appeal system. For external reporting of the performance of the appeals system, DVA had agreed to use VRB statistics on workloads. However, DVA has yet to agree with the VRB on a method to align internal counting of appeal cases and decisions between organisations. DVA is committed to conduct a review of counting methods to identify differences and to make changes as appropriate.

Reporting data

2.39 DVA is responsible for the accuracy and completeness of data relating to primary claims and s31 internal reviews. The VRB is responsible for administrative data on the number of appeals it receives. For the purposes of external reporting DVA has now agreed to use VRB statistics to describe workloads (VRB data on the number of new appeals, completion of appeal hearings and outstanding appeals). This is acceptable as the data directly relate to the VRB phase of the disability compensation appeal process.

2.40 For the purposes of internal reporting, DVA and VRB data are unlikely to precisely match because, as noted in the previous audit, both DVA and the VRB are viewing the same data from different perspectives. DVA and the VRB are counting veteran appeal cases at different times and for different reasons.

2.41 The ANAO considers that, if DVA and the VRB had access to each other's databases, or used a common database with appropriate security and privacy constraints, this would assist in ensuring better management of disability compensation appeals data. It would also provide a better service to veterans, through a coordinated approach to items such as a veteran's change of address.

2.42 DVA informed the ANAO that it intends to conduct a review of counting methods. DVA expects that further Electronic Document Management (EDM) Project enhancements will reveal additional possible reasons for the differences in the counting methods between DVA and the VRB.

Additional DVA information provided in May 2003

2.43 DVA supports the ANAO's assessment that Recommendation 4 has been partially implemented. The department has initiated a project to consider the

feasibility of introducing Electronic Document Management (EDM) technology into several areas of the department. One of these areas is the production of s137 Reports. These reports are produced by DVA when an appeal has been lodged with the VRB, and they comprise a copy of all documents that were considered during the assessment of the veteran's claim for disability pension. A business analysis has been completed identifying the requirements of the use of EDM technology for the production of s137 Reports. The scope of this project includes establishing automated interfaces between systems run by DVA and the VRB in order to facilitate more accurate data exchange. This should also result in a closer alignment of statistical counts for appeal cases and decisions. A business case for all EDM initiatives is currently being developed.

ANAO Recommendation from this follow-up audit

2.44 The ANAO *recommends* that DVA and VRB, in order to facilitate veterans' compensation appeals, and in the context of their strategic planning in this area, encourage all veterans and their dependants to seek Ex-Service Organisation advocacy support.

DVA response

2.45 **Agreed.** Wording to this effect already forms part of the Disability Pension and War Widow(er)s claim form and is included in the formal process outlined in the Repatriation Commission protocols for s31 Reviews. Several State Offices have also included, in decision and acknowledgement letters for s31 Reviews, a recommendation that veterans seek assistance from Ex-Service Organisations in completing their claims or appeals. The remaining State Offices propose to adopt similar approaches.

VRB response

2.46 **Agreed.** The VRB understands the context in which the recommendation is made and is willing to develop its current procedures and to work cooperatively with DVA and ESOs in encouraging veterans and their dependants to seek ESO representation to assist them with disability compensation appeals.

3. Veterans' Review Board

This chapter outlines the VRB's implementation of Audit Report No.29 2000–01. Both recommendations affecting the VRB have been implemented.

Introduction

3.1 The VRB is a Commonwealth tribunal that began operations on 1 January 1985. It is independent of the Repatriation Commission and DVA. The VRB is structured into registries, with a Principal Registry in Canberra and registries in each State capital.

3.2 The VRB is an integral part of the appeal process against disability compensation entitlement decisions. The VRB was established to review, on the merits of the case, primary decisions made by delegates of the Repatriation Commission on claims for disability pension. To this end the VRB aims to:

- finalise high numbers of applications for review;
- do so at a quality level that affords a high assurance that review decisions are correct;
- complete all process stages subject to the VRB's control on a timely basis;
- review efficiently; and
- be accessible and responsive to stakeholders in the veteran community.

3.3 There are 45 Board members—one full time and 44 part-time. The Board comprises Senior Members, Services Members and other Members. Senior Members are usually lawyers and they preside at hearings. Services Members are selected from nominations submitted to the Minister for Veterans' Affairs by Ex-Service Organisations. The other Members have a wide variety of qualifications.

3.4 The VRB holds hearings to consider disability compensation appeals. A panel of three members - a Senior Member, a Services Member and one other Member, reviews most appeal cases. Sometimes two members will review a case if the third member is ill or unavailable. The VRB holds hearings in each State capital and in Canberra. At times, hearings are also held in regional centres.

3.5 VRB staff provide administrative support to the Board, including the processing of applications both before and after the hearing of a matter.

Recommendation 1 of Audit Report No.29 2000–01

3.6 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.

3.7 The first part of this recommendation applies more to DVA than VRB since DVA makes decisions at the primary claims assessment level. The ANAO concluded that VRB had implemented the second part of this recommendation, through strategies developed to encourage early settlement of appeals. Since the VRB had only recently implemented these strategies, the ANAO was unable to determine the effect of these interventions on the costs of review.

Minimising the level of appeals

3.8 One of the key strategies employed by the VRB to encourage the early settlement of appeals is to address the issue of unrepresented veterans. The number of unrepresented veterans was identified by the VRB as a major cause in lengthening the appeal process, causing delays in the listing of cases. VRB finds that the unrepresented veteran often displays a limited understanding of issues such as identification of the illness or injury, connection of the illness/injury with service, standards of proof and application of the Statements of Principles, making the case more difficult to close. VRB states that, among unrepresented applicants who appear at the VRB, it was often clear that there was little understanding of the *Veterans' Entitlements Act 1986* or of the possible availability of information that may assist them.

3.9 In 2001–02, there were some 20 per cent of applicants who were not represented by an advocate. VRB, over the past three financial years has progressively increased the number of applicants being represented before the Veterans' Review Board. Veteran representation at VRB hearings has increased proportionately from 4592 cases in 1999–2000 (77 per cent of cases) to 3666 in 2001–02 (80 per cent of cases). VRB has improved the situation by routinely informing applicants of the availability of representation from veteran organisations and by the National Case Appraisal Registrar initiative.

3.10 The VRB is in the process of establishing a new position to manage the 'National Case Appraisal Registrar' (NCAR). It is intended that the NCAR and the State Registrars will appraise 'unrepresented' applications to identify legal and evidentiary issues and assess readiness for hearing. The NCAR will develop strategies, conduct training and report monthly on progress. Initial State consultations began at the end of November 2002, with the new system operational in February 2003.

3.11 The State Registrars, along with their staff, will assist unrepresented applicants to understand issues such as identification of the illness or injury, the connection of the illness or injury with war service, and the application of standards of proof. In addition, the NCAR will act as a point of contact for representatives to keep them informed of issues in connection with entitlement law.

3.12 The ANAO supports VRB's endeavours to increase the level of representation. However, the ANAO considers that there is additional scope for both DVA and the VRB to further encourage veterans and their dependants to seek ESO representation to assist them with disability compensation appeals. (Refer to the new recommendation of this report, at the end of chapter 2).

Staff skill levels

3.13 The VRB, as part of its strategy, is in the process of improving the skill levels of its staff. The VRB is currently developing salary broadbanding¹⁴ for its staff, to link measurable job competencies and skill levels to every job. Measurement of competencies will form a routine part of individual performance development and review, and be a basis for advancement within the broadband.

3.14 Another component of VRB's strategy is to improve staff access to a veterans' law course. VRB has established an association with the School of Law and Justice at Southern Cross University (SCU). SCU and the VRB have developed a short course in veterans' law. The course allows VRB to revise its in-house training materials, and for staff to participate in a well-structured university accredited training program. A number of VRB staff, ex-service representatives and DVA staff have successfully completed the course.

¹⁴ Broadbanding occurs when a number of salary grades are combined into a salary band. Staff progress from one salary grade to a higher salary grade within the same broadband, as their competency levels increase, without the need to apply for a promotion.

Costs of review

3.15 In the period 2000–01 to 2001–02, the number of appeals finalised by the VRB reduced by 1088, or 13.7 per cent¹⁵. In the same period, VRB's total administrative costs reduced by around \$0.331 million, or 4.6 per cent¹⁶. This resulted in the average costs per appeal increasing by \$95, to \$996, or 10.5 per cent¹⁷.

3.16 In order to reduce the future costs of appeals, the VRB had adopted strategies to:

- improve the timeliness of appeal processing, thereby encouraging earlier settlement of appeals; and
- reduce the number of outstanding appeals.

Earlier settlement of appeals

3.17 Table 6 illustrates that DVA, VRB and the applicant are in control of various stages in the appeal process. Table 6 also illustrates the average time taken for each stage. During 2001–02:

- DVA had control over 11 per cent (*stage 1*) of the total time;
- VRB had control over 25 per cent of the total time (*stages 2, 5 & 6*); and
- the applicant, or their representative, had control over 64 per cent of the total time (*stages 3 & 4*).

¹⁵ 7 925 cases in 2000–01, 6837 cases in 2001–02 see Appendix 2.

¹⁶ \$7.142 million in 2000–01, \$6.811 million in 2001–02, see Appendix 2.

¹⁷ \$901 per case in 2000–01, \$996 per case in 2001–02, see Table 5.

Table 6**Average times to process appeals (in days) 2001–02**

	Compensation Appeal Procedural Stages	Average Time taken	Primary Control	%
1.	Appeal lodgement with DVA to DVA completing the documentary evidence report (s137). Including s31 Review, if applicable.	41 days	DVA	11.1
2.	VRB receipt of s137 Report to VRB requesting administrative details from the applicant (s148 Notice).	6 days	VRB	1.6
3.	Time taken for the applicant to reply to the s148 Notice sent.	28 days	Applicant	7.6
4.	Applicant/representative preparing their case.	209 days	Applicant	56.8
5.	From notification of applicant/representative readiness (Certificate of Readiness) to processing to Hearing. <i>Including VRB checking that the documentation prepared is adequate and obtaining medical reports, if required.</i>	72 days	VRB	19.6
6.	From Hearing to Publication of decision and reasons.	12 days	VRB	3.3
	Average time for an Appeal	368 days		100.0
Summary of Primary Control				
1	Under the control of DVA.			11.1
2, 5 & 6	Under the control of the VRB. (1.6% + 19.6% +3.3%)			24.5
3 & 4	Under the control of the veteran and/or representative. (7.6% + 56.8%)			64.4
	Total			100.0

Source: VRB Annual Report 2001–02, Table 8, p. 33, format modified by the ANAO.

3.18 Table 7 illustrates how DVA and the VRB processing times have improved over the past three financial years.

Table 7

Average times to process appeals (in days) over the past three financial years

	Compensation Appeal Procedural Stages	Average Time Taken		
		1999-00	2000-01	2001-02
1.	Appeal lodgement with DVA to DVA completing the documentary evidence report (s137). Including s31 Review, if applicable.	54 days (12.4%)	46 days (11.6%)	41 days (11.1%)
2.	VRB receipt of s137 Report to VRB requesting administrative details from the applicant (s148 Notice).	34 days (7.8%)	14 days (3.5%)	6 days (1.6%)
3.	Time taken for the applicant to reply to the s148 Notice sent.	40 days (9.1%)	43 days (10.8%)	28 days (7.6%)
4.	Applicant/representative preparing their case.	215 days (49.1%)	206 days (51.8%)	209 days (56.8%)
5.	From notification of applicant/representative readiness (Certificate of Readiness) to processing to Hearing. <i>Including VRB checking that the documentation prepared is adequate and obtaining medical reports, if required.</i>	75 days (17.2%)	75 days (18.8%)	72 days (19.6%)
6.	From Hearing to Publication of decision and reasons.	19 days (4.4%)	14 days (3.5%)	12 days (3.3%)
	Average time for an Appeal	437 days (100%)	398 days (100%)	368 days (100%)
Summary of Primary Control				
1	Under the control of DVA.	12.4% (54 days)	11.6% (46 days)	11.1% (41 days)
2, 5 & 6	Under the control of the VRB.	29.4% (128 days)	25.8% (103 days)	24.5% (90 days)
3 & 4	Under the control of the veteran and/or representative.	58.2% (255 days)	62.6% (249 days)	64.4% (237 days)
	Total	100% (437 days)	100% (398 days)	100% (368 days)

Source: VRB Annual Reports, format modified by the ANAO.

3.19 Table 7 shows that the average time to process appeals, from the applicant lodging the appeal with DVA to the end of the VRB process, has reduced by 69 days from 437 days (1999–2000) to 368 days (2001–02), a 15.8 per cent reduction. VRB has made efficiencies in reducing the time taken for stages that it controls. VRB has reduced its component of the appeal process by 38 days from 128 days (1999–2000) to 90 days (2001–02), resulting in a 29.7 per cent reduction over the past three financial years.

3.20 DVA has reduced the time to complete its part of the appeals process by 13 days from 54 days (1999–2000) to 41 days (2001–02), resulting in a 24.1 per cent reduction over the previous three years (shown in stage 1).

3.21 The time taken by the veteran, or their representative (shown as stage 3 & 4) has reduced slightly, from 255 to 237 days. In particular, stage 3, the veteran replying to the VRB’s initial letter giving administrative details (s148 Notice) reduced by 12 days from 40 days (1999–2000) to 28 days (2001–02).

Reducing outstanding appeals

3.22 The VRB cannot list cases for a Board Hearing until it receives a ‘Certificate of Readiness’¹⁸, from the veteran (or veteran’s representative). Veterans, or their representatives, under the *Veterans’ Entitlements Act 1986*, are allowed a period of up to two years from the time the appeal is lodged with DVA to the lodgement of the Certificate of Readiness.

3.23 This situation results in a significant number of outstanding appeals at any given time. In approximately 72 per cent of outstanding appeal cases, responsibility for action to progress an appeal rests with a veteran or their representative¹⁹. The VRB regularly writes to veterans and their representatives, encouraging them to progress the appeal in a timely manner. The VRB has also moved to enforce the two year time limit more strictly, resulting in a reduction of two per cent of outstanding appeals over two years old.²⁰

3.24 Table 8 shows a reduction of outstanding appeals from 6 980 in 1999–2000 to 5104 in 2001–02, which is a 26.9 per cent decrease.

Table 8
Distribution of Outstanding Appeals

	1999–00	2000–01	2001–02
Department	534	509	343
Applicant	4 997	3 876	3 697
VRB	1 449	1 211	1 064
Total	6 980	5 596	5 104
% in VRB control	20.8%	21.6%	20.8%

Source: VRB Annual Reports.

¹⁸ Certificate of Readiness—Notification given to VRB that the veteran, and/or their representative, is ready for the (VRB) Board hearing.

¹⁹ VRB Annual Report 2001–02, Canberra, 2002, calculated from Table 2, p. 22.

²⁰ VRB Annual Report 2001–02, Canberra, 2002, p. 23.

3.25 Table 9 shows the age distribution of outstanding appeals. The majority of outstanding appeals are one year or less, 66 per cent in 2000–01 and 71 per cent in 2001–02.

Table 9
Age Distribution of Outstanding Appeals

Age of appeal	2000–01	2001–02
< 1year old	3 700 (66%)	3 590 (71 %)
1-2 years old	1 406 (25%)	1 148 (22%)
2-3 years old	423 (8%)	313 (6%)
3-4 years old	61 (1%)	45 (1%)
> 4 years	6	8
Total	5 596	5 104

Source: VRB Annual Reports.

Note: No data available prior to 2000–01.

Recommendation 4 of Audit Report No.29 2000–01

3.26 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.

3.27 The ANAO concluded that the VRB had implemented Recommendation 4. The VRB and DVA have agreed to use VRB figures for all external reporting on the operation of the appeals system and for reporting to the Repatriation Commission.

3.28 The ANAO considers that no further action is required by the VRB until DVA has conducted a review of counting methods. Refer to the discussion of DVA's implementation of Recommendation 4 in the previous chapter.

Canberra ACT
26 June 2003



Oliver Winder
Acting Auditor-General

Appendices

Appendix 1

DVA and VRB Response to Recommendations of Audit Report No.29 of 2000–01

Table A1

Recommendations of Audit Report No.29 of 2000–01, DVA & VRB responses

	Earlier Report		
	Recommendation	DVA response	VRB response
1.	<p>The ANAO recommends that, in order to minimise the overall cost of review, DVA and VRB should:</p> <ul style="list-style-type: none"> • 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 appeals at the earliest possible stage. These strategies could include making 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. 	<p>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.</p>	<p>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.</p>

Earlier Report		
Recommendation	DVA response	VRB response
<p>2. The ANAO recommends that DVA should:</p> <ul style="list-style-type: none"> • 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. 	Agreed.	Not applicable.

<p>3. 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 providing greater confidence and accountability to all stakeholders.</p>	<p>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.</p>	<p>Not applicable.</p>
<p>4. 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.</p>	<p>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.</p>	<p>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.</p>

Appendix 2

Data on the Appeals Process

Table A2

Numbers and costs at each stage of the appeal process

Numbers and Administrative Cost, Average time and costs per case	2000–01	2001–02	Change %
Primary Decision			
Number			
Intake	55 124	53 101	-3.7
Finalised	55 071	53 441	-3.0
Outstanding	9 390	9 001	-4.2
Total Admin Cost	\$26 283 868	\$27 377 240	4.1
Average time to process (days)	60	62	3.3
Average Admin Cost per case	\$477	\$512	7.3
DVA Internal Review			
Number			
Intake	11 579	11 422	-1.4
Disposals	11 555	11 490	-0.6
Outstanding	352	284	-19.3
Total Admin Cost	\$9 569 424	\$9 212 535	-3.7
Average time to process (days) (refer only to s31)	27	26	-3.7
Average Admin Cost per case	\$828	\$802	-3.1
VRB			
Number			
Lodged	6 548	6 336	-3.2
Finalised	7 925	6 837	-13.7
Outstanding	5 596	5 104	-8.8
Total Admin Cost	\$7 142 000	\$6 811 000	-4.6
Average time to process (days)			
Receipt to S148	14	6	-57.1
Certificate of readiness to Hearing	75	72	-4.0
From Hearing to Publication	14	12	-14.3
Average Admin Cost per case	\$901	\$996	10.5
AAT			
Number			
Intake	1 612	1 378	-14.5
Finalised (Disposed)	2 163	1 330	-38.5
Total Admin, Medical & Referred Legal Costs	\$5 597 714	\$5 023 862	-10.3
Average time to process (days)	367	383	4.4
Average Admin Cost per case	Not available	Not available	

Source: Data supplied by the Department of Veterans' Affairs as at May 2003.

Note 1: The AAT costs do not include Attorney General's Department in-house legal aid costs.

Note 2: DVA Internal Review total admin costs includes s31 Review and s137 Report preparation.

Note 3: This table ignores Federal and High Court related costs, as they were not available.

Index

A

Administrative Appeals Tribunal (AAT) 14, 25-26, 29, 31-32, 35, 54

administrative costs 32, 43

advocates 36

advocacy support 17, 19, 36, 39

audit objective and focus 28

audit methodology 28

B

Building Excellence in Support and Training (BEST) 17, 29, 35-36

C

Certificate of Readiness 46

claims assessors 16, 34

Clarke Report 27

costs 16, 29-32, 35, 41, 43, 54

counting methods 17, 38, 47

D

disability compensation 13-14, 23, 25-27, 29-32, 35, 38-40, 42

disability pensioners 13, 24

E

Electronic Document Management (EDM) 17, 34-35, 38-39

evidence 14, 16-17, 28-30, 33-35, 41

Ex-Service Organisations (ESO) 17, 29, 33, 35-37, 39-40, 42

external reporting 17, 38, 47

external review 14, 28-29, 33

F

Federal Court 14, 25

H

hearings 38, 40-41

High Court 41, 25, 54

I

internal reporting 38

internal review 13, 25, 29, 31-32, 54

Internet 37

L

level of appeals 14, 16, 28-30, 41

M

medical conditions 24, 30

Military Compensation Bill 27

N

National Case Appraisal Registrar (NCAR) 33, 41-42

O

outstanding appeals 38, 43, 46-47

P

previous audit 27, 29, 33, 35, 37-38

primary claims 14, 16, 26, 28, 30, 38, 41

primary decision 14, 16-17, 28, 31-34

Q

QA Sampling Assessment and Reporting System (QUASARS) 31

quality 14, 16-17, 28, 30-33, 35-36, 40-41

Quality Decisions Every Time (QDET) 30

R

Reasons for Decision 14, 16, 28, 30, 34, 41

Repatriation Commission 13-14, 23, 25-27, 33, 36-37, 39-40

representative 33, 35, 37, 43, 46

S

s31 Reviews 31-32, 37, 39

s137 Reports 16-17, 31-32, 34-35, 39

salary broadbanding

scanning technology 16-17, 34-35

settlement of appeals 16, 29-32, 41, 43

State Offices 14-15, 28, 30, 34, 39

Statement of Principles (SoPs) 30, 41

strategic plan 17, 36-37

T

training 14, 16-17, 28, 30, 34-36, 42

Training and Information Program (TIP) 35-36

V

Veterans' Entitlements Act 1986 (VEA) 13, 23, 25, 33

veterans' law course 42

VRB documentation checklists 16, 34-35

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Information Technology at the Department of Health and Ageing
Department of Health and Ageing

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