



# Wellbeing and Compensation Advocates

## What are ESO Wellbeing and Compensation Advocates?

Serving members, veterans and families can engage with the Department of Veterans' Affairs (DVA) in a number of ways, including in person by visiting a Veteran Access Network or Services Australia shopfront, online via the DVA MyService portal, or through other nominated representatives, to seek information about claims related to their service, seek reviews of decisions, or seek assistance for treatment.

For veterans and families who would like assistance, wellbeing and compensation ESO advocates are available to assist them with part or all of preparing and lodging compensation claims and/or find and use DVA payments, and with wellbeing supports and services. For information visit <https://www.dva.gov.au/get-support/advocacy-representation-advice>.

## How do you find a free ESO Wellbeing or Compensation Advocate?

Ex-service organisations (ESOs) provide free advocacy services to assist veterans and families with their wellbeing support and compensation claims needs (some may charge a small administration fee).

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](http://www.atdp.org.au)). The ATDP offers ESOs and veteran centres nationally consistent training in wellbeing support and claims assistance.

Free ESO advocacy services around Australia can be found on the Advocacy Register ([www.advocateregister.org.au](http://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. ESOs authorise advocates to work for them, and help advocates undertake continuing professional development.

## How does an ESO Wellbeing or Compensation Advocate help veterans and families?

ESO advocates can help veterans and families to:

- 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?

Choosing to pay for claims assistance, either through a fee for service advocacy company or for-profit law firm, has no impact on the time it takes to have claims determined by DVA. Nor does paying for advocacy services or claims assistance guarantee the success of claims, reviews, reconsiderations, or appeals, and it does not ensure that the advocate is trained or experienced.

ESO advocates trained through the ATDP are experienced and connected with a network of peers. They provide a free 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 are often 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, and may seek a percentage of any compensation received, or charge a fee. These are independent businesses, and the amount the veteran is charged by for-profit organisations is not regulated by DVA. For-profit organisations are not eligible to nominate advocates for training through the ATDP.

Feature	<a href="#">ESO Advocates</a>	Providers that charges fees for their services
No fees for advocacy services	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Advocates with qualifications through the ATDP	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Provides wellbeing AND claims advocacy	<input checked="" type="checkbox"/>	Varies between providers
Advocates expected to have professional indemnity insurance	<input checked="" type="checkbox"/>	Varies between providers
Faster processing of claims guaranteed	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

## Can lawyers assist with DVA claims?

Veterans and families may also choose to engage a lawyer or legal service to assist you with their DVA claim, or when seeking a review of a decision. Lawyers usually charge fees. If a veteran or family member decides to engage the services of a lawyer they should be provided with documentation from the lawyer about the fees that will be charged and how they are calculated.

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 a complaint about a lawyer, or a person who may be falsely claiming to be a legal practitioner, can be lodged.



Legal Aid services in each State and Territory may also be 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 different 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 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 their training and knowledge is current. Not all advocates are covered by professional indemnity insurance.

DVA and Defence suggest veterans raise this matter with any advocate they are seeking to engage to understand whether or not they are covered by this type of insurance.

### **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 you should take into consideration.

- If the advocate charges a fee, what is their fee structure and service standards and what are their qualifications?
- How frequently does the advocate communicate with clients, the method used, and how do they advise of progress on claims or advocate absences?
- How does the advocate manage their risks around the service they provide? Do they have professional indemnity insurance? What arrangements are in place if the advocate/organisation ceases to operate?
- How can clients provide feedback on the way the advocate works?
- 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?
- Can the advocate offer additional services or supports, for example acting as a support person in non –DVA matters, and how would these be agreed between advocate and veteran or family member?

Important things to sight when choosing a free ESO advocate include:

- a current Letter of Authorisation issued by the ESO showing they represent that ESO
- a Statement of Attainment confirming an advocate's qualification from the *Course in Military Advocacy* relevant to the type of assistance sought
- evidence of current professional indemnity insurance.

Note – Only people who are appropriately qualified can provide legal and financial advice, the CiMA does not provide these qualifications.



## 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 not subject to a means test.</p> <p><a href="https://www.legalaid.nsw.gov.au/my-problem-is-about/my-right-as-a/veteran">https://www.legalaid.nsw.gov.au/my-problem-is-about/my-right-as-a/veteran</a></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. This assistance is not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://www.legalaid.qld.gov.au/Find-legal-information/Publications-and-resources/Brochures/Free-legal-help-for-war-veterans">https://www.legalaid.qld.gov.au/Find-legal-information/Publications-and-resources/Brochures/Free-legal-help-for-war-veterans</a></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 not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://www.handbook.vla.vic.gov.au/guideline-5-war-veterans-matters">https://www.handbook.vla.vic.gov.au/guideline-5-war-veterans-matters</a></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 not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://www.legalaid.tas.gov.au/wp-content/uploads/2022/10/Guidelines-22-NLAP-2020-2025-v3.pdf">https://www.legalaid.tas.gov.au/wp-content/uploads/2022/10/Guidelines-22-NLAP-2020-2025-v3.pdf</a>, 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"> <li>• the veteran may incriminate themselves</li> <li>• complexity</li> <li>• requires significant medical evidence</li> <li>• the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage</li> <li>• the Commission decides it involves an important or complex questions of law.</li> </ul> <p>This assistance is not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://www.legalaidact.org.au/sites/default/files/files/publications/la_act_guidelines_aug_2017.pdf">https://www.legalaidact.org.au/sites/default/files/files/publications/la_act_guidelines_aug_2017.pdf</a>, 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"> <li>• the veteran may incriminate themselves</li> <li>• complexity</li> <li>• requires significant medical evidence</li> <li>• the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage</li> <li>• the Commission decides it involves an important or complex questions of law.</li> </ul> <p>This assistance is not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://lsc.sa.gov.au/cb_pages/commonwealth_guidelines_civil_law.php">https://lsc.sa.gov.au/cb_pages/commonwealth_guidelines_civil_law.php</a>, Guideline 5</p>
<p>Legal Aid Western Australia</p>	<p>The Legal Aid Commission may 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"> <li>• the veteran may incriminate themselves</li> <li>• complexity</li> <li>• requires significant medical evidence</li> <li>• the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage</li> <li>• the Commission decides it involves an important or complex questions of law.</li> </ul> <p>This assistance is not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://www.legalaid.wa.gov.au/sites/default/files/National_Commonwealth_Guidelines.pdf">https://www.legalaid.wa.gov.au/sites/default/files/National_Commonwealth_Guidelines.pdf</a>, 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"> <li>• the veteran may incriminate themselves</li> <li>• complexity</li> <li>• requires significant medical evidence</li> <li>• the veteran is unable to represent themselves due to a list of vulnerabilities or disadvantage</li> <li>• the Commission decides it involves an important or complex questions of law.</li> </ul> <p>This assistance is not subject to a means test, although it is subject to a merits test.</p> <p><a href="https://www.legalaid.nt.gov.au/wp-content/uploads/Chapter-4-Guidelines.pdf">https://www.legalaid.nt.gov.au/wp-content/uploads/Chapter-4-Guidelines.pdf</a>, Guideline 5, p. 41</p>