

HOTLINE

Fostering the interests and wellbeing of ADF members and their families during and after their service.

In this Issue

- Veterans' Day at Australia Zoo
- The Men's Shed and Veterans
- DVA – SE Qld Veterans Wellbeing Centre
- Legislation Establishing Qld Veterans' Council Passed
- Proposed Legislation Reversing Federal Court Decision on Taxation of Invalidity Benefits

VETERANS DAY 18 NOVEMBER 2021 AUSTRALIA ZOO



L-r. Aaron Smith from Duty First Legal Service, Michael Hughes, John Lowis, Andrew Wallace MP, and Win Fowles DFWAQ VP for Sunshine Coast.

VP Win Fowles arranged with Andrew Wallace (1), local Member for Fisher for DFWAQ to have a stall at Australia in Australia Zoo on Veterans Day from 0800 to 1200. Veterans usually get a discount to the zoo, but on this day, it was free for the veteran and one other. This has been a generous offer by the zoo for the last few years except last

year due to COVID. A big thank you for Australia Zoo, especially in these times of tourist lockout. Numbers have dropped by over 80%. There are still many animals to be fed and the Zoo has had to shed over 200 staff.

Travelling to and from Brisbane was through a downpour. Thankfully, except for a slight sprinkle as we were setting up, the day remained fine. DFWAQ assembled the kit we usually take to the ADF Defence Member and Family Transition Seminar held in the Brisbane Exhibition Centre. As these seminars have been suspended due to COVID, some of the handouts were a bit dated, e.g., phone numbers. Luckily, this was picked up by Sharyn Hughes who quickly arranged updating of the bookmarks. Michael Hughes also did the bulk of the stall-holding, answering queries and giving out our showbags as Win and John were called away for some time. Andrew Wallace had arranged an internet face to face meeting with the Minister for Veteran Affairs and Defence Personnel, Andrew Gee MP for reps of ESOs at the zoo. The meeting went well over an hour and many issues were covered.

We invited Duty First Legal Service - By Veterans | For Veterans, to share the stall space with us. This is a newly started not for profit legal service located at Clontarf and focussed on areas where veterans and families often require specific assistance.

(Note 1: On 22 November, Andrew Wallace became the 31st Speaker of the House of Representatives.)

THE MEN'S SHED AND VETERANS

WHY WOULD AN EX-SERVICE MAN/WOMAN WANT TO JOIN A MEN'S SHED WHEN HE/SHE HAS JUST MANAGED TO LEAVE THE ADF?

At a recent forum of ex-defence organisations in Brisbane, the following comments were offered....

(Mental Health practitioners) found (that) encouraging (ADF) "transitioners" to get involved in blokes' groups – a new team to replace the ADF team – assisted (with transition).

Men's Sheds are a good place of similar blokes' relationships – not tied to booze/gambling like some Ex-Service Organisations. A place where they can drop in when convenient or as arranged amongst selves.

Firstly, not all Men's Sheds are Men only (although most are). Some are mixed and there are even some female only sheds "She Sheds". But let's call them all "Men's" in a non-gender specific way.

The modern Men's Shed is an updated version of the shed in the backyard that has long been a part of Australian culture. Men's Sheds are found in many cities and towns around Australia and continue to spring up internationally.

Some sheds are large, well equipped, others small, often meeting in a garage or private tool shed.

If you looked inside, you might see a number of people making furniture, perhaps restoring bicycles for a local school, making bird traps, fixing lawn mowers or making a cubby house for Camp Quality to raffle. You might also

see a few young men working with the older men obtaining new skills and learning something about life from the men with whom they work.



Or cooking.....

Most of us have learned from our defence force culture that we don't talk about feelings and emotions. We tended to down-play injuries and illness, not that we did not take an interest in our own health and well-being.

Particularly, in the ADF, we were reluctant to talk about our emotions and that means rarely did we seek help. Probably because of this, post discharge, some of us are less healthy, drink more, take more risks and suffer more from isolation, loneliness, and depression. There is sometimes a relationship breakdown, unsettled permanent employment, loss of children following divorce, physical or mental illness are just some of the problems that men we find difficult to deal with on our own.

So...

We encourage ex-ADF people to seek out their local Men's Shed and find out if it suites you. You might achieve a sense of belonging, support and mateship, all

without over-committing yourself and your time.

As for ex defence organisations (EDO'S). Please consider referring your clients to a Men's Shed where you think this might be appropriate. (They are easy to find on the web)

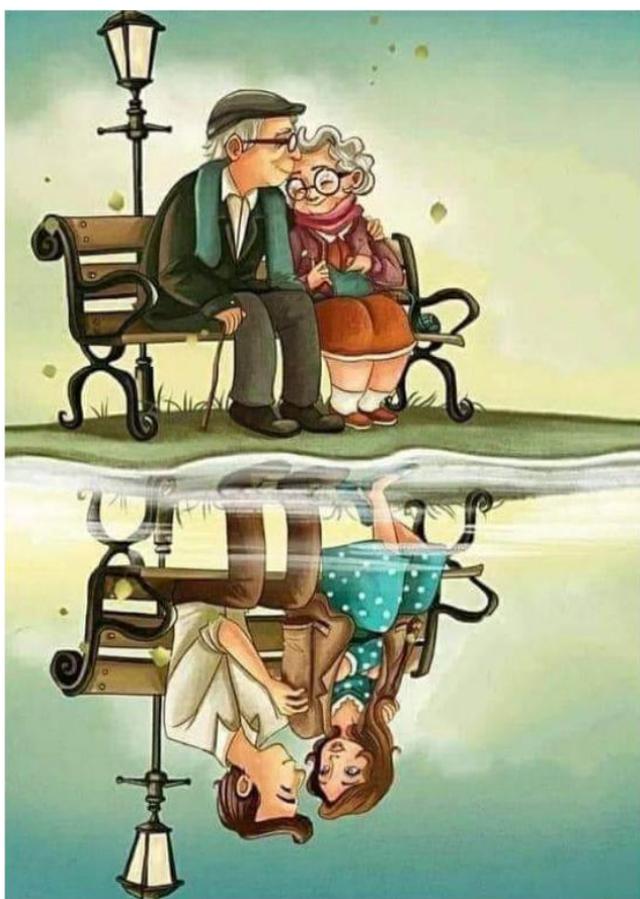
Remember, being a "shedder" is like having a job that you don't have to go to if you don't want to.

Acknowledgements:

*The Australian Men's Shed Association
AMSA*

*The Queensland Men's Shed Association
QMSA*

*The Defence force Welfare Association
Queensland DFWAQ*



DVA- South-East Qld (SEQ) Veterans Wellbeing Centre

As part of this year's budget, the government announced \$5m funding for development of a Veterans Hub in SEQ. This was a part of an extension of the 6 hubs being supported for Townsville, Nowra, Perth Darwin, Adelaide, and Wodonga.

The core purpose of the network of Centres is to provide support services for veterans and their families. This includes:

- A shopfront to provide access tailored to local needs and opportunities.
- Case management services.
- Coordinating access to local services not available at the Centres, but required by veterans and their families; and
- Greater access to health and wellbeing services.

Services and supports that are provided in the Centres may be hosted by:

- ex-service organisation (ESOs).
- Commonwealth and state and territory governments; or
- other non-governmental organisations

Through the local lead organisation, each Centre will develop a tailored service model, which is best suited to meet the needs of local veterans and their families.

Naturally, DFWAQ supported the concept of the Hub, recognising the successful community-led example in Townsville – the OASIS. Further, in the DFWA Productivity Commission submission, DFWA supported a one-stop-shop for all local and government and non-government services, including ESO, close to ADF and veteran populations.

With other ESO, DFWAQ has been pushing for the DVA consultation regarding the SEQ part of this since May. On 28 October, Minister Gee, announced the opening on *Expressions of Interest* (EoI) for the Wellbeing Centre in SEQ.

In the announcement, comparisons with the OASIS in Townsville were mentioned. One of the success reasons of OASIS is that it was initiated and driven by local community with funding from several sources and not dominated by a major ESO. Townsville City Council played a lead role. SEQ has 17 Local Government Areas, compared with one or two in some other sites, eg Nowra and Wodonga. SEQ has 65% of known veteran population in Qld. Yet "the one size fits all sites" has been adopted in the DVA approach.

There has been no consultation with ESO or the veteran community, prior to the issuing of the EoI.

DVA briefings were made available on 8 or 9 November and in open competition for all, EoI had to be submitted within four weeks by 29 November.

The EoI invited ESO or others, e.g., a consortium, to deliver such a project.

The EoI has many requirements related to a range of services, essential, desirable, and nice to have delivered by many, requiring details of local needs identified and to be addressed, indicating local communities, and contributing ESO and service providers to be engaged, and other requirements ensuring DVA money is well spent. It involves considerable resources to prepare.

- The resources required to put an EoI together, are significant.
- The time required to prepare and submit it – especially from charitable organisations – whose people,

voluntary and paid, are already overstretched in delivering services.

- Do DVA understand the Veteran community who deliver services to Veteran?
- Is DVA really "Veteran-centric", or just "DVA Centric"?

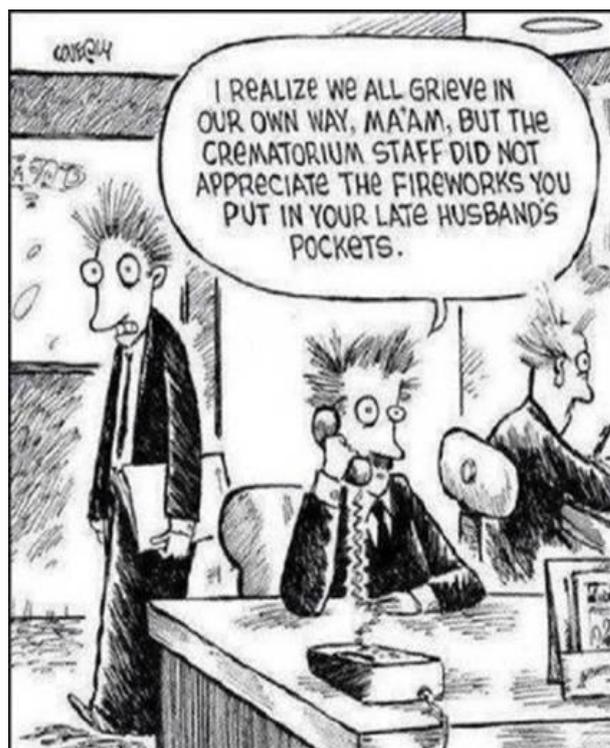
This is another DVA consultation farce.

DFWAQ raised our concerns about this with Minister Gee at the video-conference we attended at Australia Zoo on Veterans' Day.

Given timelines, election approaching and that the project is going ahead, DFWAQ has to support it for the betterment of veterans and families.

DFWAQ was approached by RSLQ to support their EoI should their proposal be accepted. We have been working with RSLQ in several things collaboratively this last year, for the betterment of veterans and families, and we have given support to their approach to this large venture.

-----ooOoo-----



NEW STATE LEGISLATION ESTABLISHING A QLD VETERANS' COUNCIL (QVC)

Last Issue we reported on the new bill. We had made submissions to the Community Support and Services Committee. The government's final response to the committee's report was tabled on 14 October 2021. The Bill was passed with amendments by the Queensland Parliament on 28 October 2021.

The Bill as passed has two main changes which DFVAQ supported:

- a new Section 13 (2A) - At least 4 of the appointed members **must** be veterans or members of the veterans' community; and
- an amendment to Section 34 (1) - The Minister **must** establish a veterans' reference group and approve the terms of reference for the group.

The Bill still has drawbacks concerning mixing of functions, skills and experience required and provision of independent advice to the Minister, however ensuring at least half are veterans can mitigate some of the risks envisaged. The act does not preclude the Chairperson being a veteran, nor does it require it.

It is understood from Kirrily Magill, Executive Director, Office for Veterans and Office for Rural and Regional Qld, Department of the Premier and Cabinet, that work has commenced on establishing the Veterans' Reference Group (volunteers) which will advise the Qld Veterans' Council (stipend).

Two Councillors will be nominated by two ESOs (of the Minister's choice) and two others appointed by the Minister. This could be through competitive recruiting.

---oOo---



---oOo---

PROPOSED LEGISLATION REVERSING THE FEDERAL COURT DECISION ON TAXATION OF INVALIDITY BENEFITS

Since 2016, DFVA has been supporting the cause of veterans fighting the incorrect taxation of Class A and B Invalidity Benefits paid out by military superannuation schemes under the control of the Commonwealth Superannuation Corporation (CSC) schemes. The Federal Court decision on 4 December 2019 in *Commissioner of Taxation v Douglas* (the Douglas decision), was a veteran victory. Since then, the implementation of the decision by CSC has been fraught.

All of this has been covered in several Camaraderie articles, including the December 2021 (Vol 52 Issue 3) edition. Since printing, the Treasury issued a joint media release "*Government Protecting Veterans' Interests Following Court Decision*". It was signed off by

Assistant Treasurer, Michael Sukkar MP and the Minister for Minister for Veteran Affairs, Andrew Gee MP, and introduced as:

"In a significant win for veterans across the country, the ... Government has taken action to ensure no veteran will be made worse off due to a Federal Court decision."

In essence, the "win" is that:

- The Government announced plans to introduce legislation:
 - Reversing the Federal Court *Douglas* decision; and claimed
 - Veterans who were better off because of *Douglas* will receive a new non-refundable tax offset.
 - The legislation (not yet released) would be retrospective.
- The Minister has advised the bill will be introduced in 2022 and veterans will not be worse off.

This statement does not acknowledge that the *Douglas* decision has resulted in significant benefit to many veterans. Many veterans will likely be made worse off by the action the Government intends to take.

Brief Summary

The stated reason for this legislation is:

More tax withheld each fortnight

"Almost 6800 veterans would have had more tax withheld from their pension payments as a result of this court decision, meaning less money in their pockets every fortnight. In some cases, this was up to \$100 per fortnight."

The Facts:

- The effect of the *Douglas* decision was that Class A and B invalidity payments which commenced after 20 September 2007, are treated as *superannuation*

lump sums rather than an *income stream*. Each fortnightly payment is treated as lump sum.

- When you receive income during the year—such as wages, pensions, lump sums—the payer must withhold tax and send that money to the tax office. For each type of payment, there is a table which tells the payer how much of your income they must withhold. (Pay As You Go – PAYG scheme)
- *Schedule 12 – Tax Table for Superannuation Lump Sums* details the withholding rates for Lump Sums. It generally has a higher withholding rate than that for an income stream.
- Veterans whose pensions were now lump sums, were to have a larger amount of tax retained each fortnight; then having to wait until the end of the financial year to claim back.
- It wasn't until August that CSC announced that amounts to be withheld were over \$100 a fortnight for some. This is what the Media Release referred to.

The Media Release ignores:

- The problem was not "as a result of the Court decision", it was bungling implementation by CSC.
- There was a fix to the problem. The Australian Taxation Office (ATO) worked with CSC, to develop a "class withholding variation" to the *Schedule 12 Tax Table* for affected veterans. This minimised the amount of tax withheld each fortnight as much as possible. The small number of veterans who still had an increase to the amount of tax withheld, could also seek an individual variation as explained by the ATO. Minimal decrease, if any. No waiting for end of year refund.
- The *Douglas* decision was in 2019. This problem should have been

identified by CSC in early 2021. The problem was not with the Douglas decision, it was and is with CSC and its capacity to implement the change and to let veterans know. (**Bungle 1**)

- Even though late, a simple honest explanation of the problem in August, and what CSC and the ATO were doing to address it, would have avoided all the unnecessary stress put on these vulnerable Veterans. (**Bungle 2**)

Tax debts going back to 2017

"Thousands of veterans were also facing the prospect of being hit with a notice for back-taxes going back to 2017. It would have devastated so many vulnerable veterans."

The Facts:

- The amount of tax paid by a taxpayer depends on how much money they received as income.
- The decision in *Douglas* had the effect of changing how much of a veteran's pension payment was to be withheld each fortnight, it has not increased their overall tax liability – in vast majority of cases, the tax has decreased significantly.

Miscalculations in income and withholding by CSC.

When implementing the changes necessary to comply with *Douglas*, CSC miscalculated the income and withholding amounts for around 500 veterans.

- These miscalculations were identified, and CSC acknowledged and apologised for them. The miscalculations may have resulted in a tax debt.
- It is not clear if these are the "tax debts" referred to by the media release. Regardless, these

miscalculations predate *Douglas* and were not caused by it. They were revealed by it.

- The proposed legislation does not claim to forgive any underpayment of tax that has occurred arising from CSC's miscalculation.

It is unlikely that any tax debts arose from the decision in *Douglas*, as implied in the Government media release.

History of Miscalculation.

CSC has made miscalculations with serious financial impact on veterans in the past. Justice Logan in the *Douglas* case when calling for a CSC explanation of income and tax withholding stated:

"The reply of the CSC ... was, with all due respect, singularly unhelpful, offering no details as to how it had come to specify [the incorrect amount] as the amount of the arrears payment"

DFWA has raised this several times with CSC. We asked what action CSC took to ensure no further miscalculations. CSC replied that the mistake was a "one-off". Clearly this is not the case.

Disability Superannuation Benefit and Other Benefits

- Many veterans who receive DFRDB and MSBS invalidity benefits can also have their pensions classified as a *disability superannuation benefit* (DSB). This has been explained in previous articles.
- Where an invalidity benefit is both a *superannuation lump sum*, and a DSB, there are additional tax benefits available, in that a portion of their pension becomes tax free, depending on how long they had served and how long they were to compulsory retirement age.

- Because a portion of the DSB is tax free, the veteran's taxable income is also reduced. That means many veterans receiving invalidity benefits become eligible for the Family Tax Benefit, childcare rebate, and for the low-income health care card.

Offset to preserve benefits of Douglas decision

The media release also announced a new "non-refundable tax offset" so that recipients of invalidity benefits who would be better off in a particular income year, if the invalidity benefits were still treated as lump sums, would retain that tax benefit.

The media release refers to retaining tax-benefits only. It is not clear from the media release that the tax offset will include the benefits of the DSB and other benefits resulting from lower taxable income such as the Family Tax Benefit, childcare rebate, and low-income health care card.

Using tax-offsets will leave veterans out of pocket. Making the legislation retrospective will leave them with debts.

DFWA Position

DFWA will absolutely oppose any Government action that removes any tax and/or other benefits flowing from the decision in *Douglas*.

DFWA seeks proper scrutiny of the proposed legislation and the continued implementation of the class variation and other aspects of the *Douglas* decision by CSC.

Separately, we also seek a review of CSC administration in this area, the mistakes of which predate *Douglas*, particularly in calculations of tax and withholding tax and the effects on other benefits dependant on taxable income.

Full Details

Full details are on the DFWA Website - <https://dfwa.org.au/> - under News and Resources – News Feed. Updates will appear on the website and in DFWA electronic Newsletter for those with email addresses.

If you are affected or know other veterans receiving Class A or B invalidity benefits, it is suggested that you keep up to date using the website.

Always check with your tax professional.

