DISCUSSION PAPER

The Future of Veterans’ Advocacy

What is Advocacy?

1. This paper refers to advocacy in the broad sense, encompassing all representation activities undertaken on behalf of applicants at all levels.

Purpose

2. The Australian Government Department of Veterans’ Affairs (DVA) is seeking to scope a more professional advocacy model, based on best practice, to assist claimants with submitting claims and lodging appeals against unfavourable decisions.

3. In particular, the focus is on claims under the Military Rehabilitation and Compensation Act 2004 (MRCA), the Safety, Rehabilitation and Compensation Act 1988 (SRCA) and multiple Act claims. This is in line with recommendations 7.7 and 7.8 of the Review of Military Compensation Arrangements (the Review) and the Government’s response which are detailed below:

   Recommendation 7.7 - Ex-service organisation (ESO) pension officers who have access to Australian Defence Force (ADF) members should have a demonstrated understanding of the MRCA and transition and rehabilitation programs.

   Government’s Response - The Government accepts this recommendation. The Government has asked DVA to scope a more professional advocacy service for claims under the MRCA and Safety, Rehabilitation and Compensation Act 1988 (SRCA) and multiple Act claims, to complement the existing network of ESO pension officers. Implementation is expected from 1 July 2014 in conjunction with a single appeal pathway for MRCA, as per Recommendation 17.1.

   Recommendation 7.8 - DVA initiatives for MRCA training and accreditation of staff be considered for extension to Defence transition and advisory officers, and to ESO pension officers and advocates.

   Government’s Response - The Government accepts this recommendation and DVA will work with Defence to provide opportunities for Defence transition and advisory officers to receive training and accreditation, as well as continuing to work with ESO pension officers. This will be included in the scoping work planned with Recommendation 7.7.

4. This paper outlines potential options for a new advocacy model. While the focus is on MRCA, SRCA and multiple Act claims, the new model may also
apply to claims under the Veterans’ Entitlements Act 1986 (VEA). This paper is for consultation with stakeholders.

**Background**

5. Historically, DVA has encouraged ESOs to assist with the submission of claims. Advocacy for current and former ADF members is primarily provided by ESO representatives and was founded on the principle of “mates helping mates”. While the majority of ESO representatives are volunteers, some ESOs employ a small number of paid advocates. The current ESO representative cohort is largely from the Vietnam Veteran era.

6. Training for these representatives is provided through the Training and Information Program (TIP). TIP is funded by DVA and represents a partnership between DVA and ESOs that began in the early 1990s. TIP as a body is essentially run by a group of volunteers, sourced from ESOs, who organise and deliver training for new and ongoing ESO representatives. The trainers do not necessarily hold any training qualifications and there is no formal testing and accreditation of the attendees.

7. As well as funding TIP, DVA also provides funding grants to ESOs to assist them in providing representational services through the Building Excellence in Support and Training (BEST) program. The BEST program began in 1999. Prior to this, funding was provided through the Claims Assistance Grants Scheme (CAGS) from 1996 to 1999.

**The Argument for Effective Advocacy**

8. In considering new advocacy models the first question must be - do clients need advocates? Can a well functioning Department provide appropriate assistance and advice to its clients without effective advocacy?

9. On the surface this appears a valid question. However, traditional arguments put forward by ESOs in favour of external advocacy include that:

- there is a special type of relationship between people who have shared similar experiences. This does not devalue the work of DVA staff. Rather, it recognises the unique nature of military service;
- they perform an intermediary role between the Department and the client. This is valuable when clients do not want to deal directly with DVA;
- ESO advocates may possess greater knowledge of the service environment that DVA staff may not have, which could be useful when exploring possible links to service;
- there is a broad network of ESO advocates covering much of the country including remote areas;
• advocacy provides benefits to the ESO volunteer. For example, they may feel a level of self-satisfaction by helping their clients;

• ESO advocates provide a source of independent advice. This is important, given at times, for some clients there is a level of distrust in Government; and

• ESOs provide other services such as veteran networks, social interaction and welfare services.

10. Advocacy services provided by ESOs play a significant role in delivering services to DVA’s clients, albeit largely with a VEA focus. Therefore, any changes to advocacy should encompass the existing ESO network of advocates, even though the roles may evolve and change.

Emerging Issues

11. While the current model of advocacy has served DVA and its clients well, new challenges are emerging as a result of changing legislation and client demographics. These are:

• ESO advocates are well versed in the VEA as this Act was relevant to their own claims and experience. Many advocates are less confident with the SRCA and MRCA.

• There is a reluctance from many ESO advocates to improve their understanding of the MRCA and SRCA. Contributing factors include their age (many are over 60 years old) and time constraints because they are volunteers and may be unable to commit the time required. The advocate’s own health issues may also impact on their ability and availability to undertake the work.

• DVA is unable to assure clients of a certain level of assistance as the quality of advocacy varies depending on the skill and knowledge of the ESO advocate.

• The service experience of the ESO advocate is very different to that of the contemporary cohort with service from 1999 onwards. The contemporary group consists of career soldiers who have seen multiple, shorter deployments to a number of war and peace-keeping zones. This is vastly different from most advocates’ experience of mass mobilisation that is associated with the more traditional conflicts.

• The needs of the contemporary group are different from the previous veterans cohort. DVA’s emerging clients are focused on undergoing rehabilitation to continue their service career or to start a new career outside of the ADF. Rehabilitation activities were less of a priority previously, with the focus for ESO advocates on submitting the claim
to enable those they represent to receive a disability pension and health care for life.

- The number of people volunteering to be advocates is declining. The current advocate group is continuing to age and are not being replaced in sufficient numbers by the younger cohort. Younger former ADF members are generally reluctant to join the traditional ESOs, perhaps perceiving them as representing the previous generation and not relevant to their own experiences.

- There is a perception amongst some advocates that the MRCA is complex (despite many provisions being similar to the VEA). This perception is further reinforced when the contemporary cohort have claims under multiple Acts. Often it is the interaction between the three Acts that creates the complexity.

- The stepped approach of claiming liability and benefits under the SRCA and MRCA is different from the single process under the VEA, where the claim for liability also involves an impairment assessment and determination of disability pension rate. The effect of this is that the advocate needs to be involved with the claim over a longer period of time and also have knowledge of the various benefits such as permanent impairment incapacity payments and rehabilitation.

**Needs of Contemporary Clients**

12. Although the majority of assistance with DVA claims is provided by ESOs, the contemporary client group is seeing a shift towards either self-representation or the use of legal firms to assist them with their claims. This may be because:

- legal firms are targeting their advertising at ADF members. Under the MRCA and SRCA, there are lump sum payments for permanent impairment compensation. This is attractive to legal firms for the purpose of recovering legal costs from the client; and

- contemporary clients have come through a system based on receiving and recognising qualifications for specific functions. ESO representatives receive training through TIP but are not accredited through any recognised system. As such, whether rightly or wrongly, contemporary clients expect formal accreditation of advocates.

**Key Issues**

13. The key issues are the expectations of the contemporary clients, the complexity of the interaction of the MRCA with the precedent Acts, and standards of advocacy. The current advocacy system, for the emerging reasons outlined above, is not sustainable and needs to be addressed by DVA.
Expectations of the Contemporary Clients

14. The need for contemporary clients to have confidence in the advice they are receiving should not be underestimated. Modern society sees regulation of many services, such as financial advisers, and there is a community expectation that people providing advice are appropriately qualified. Given the substantial amounts of compensation that can be involved and the effect on the client’s future rehabilitation and wellbeing, it is understandable that many are seeking assurance of the quality of advice and assistance received.

15. Anecdotal evidence suggests that those advocates who are known to have subject matter knowledge are sought out for assistance. Clients are willing to essentially wait in queue for their claim to be dealt with by an expert advocate. This places a high workload on those advocates and delays clients having their entitlements determined.

Complexity of the MRCA

16. Many of the provisions of the MRCA are based on the VEA which advocates are familiar with, such as the Statement of Principles and the impairment assessment tool. However, other provisions such as rehabilitation and incapacity payments are based on the SRCA which they are less familiar with.

17. The timing of the introduction of the MRCA means that many clients who have served from 1999 onwards, due to deployments on various operations, will likely have coverage under all three Acts; VEA, SRCA and MRCA. As such, the transitional provisions will affect many of the claims received, and by extension their claims experience with the Department. Poor understanding of the interaction between the Acts can lead to false expectations being raised and potential points of irritation in the claims process.

18. Quality advice early in the process would serve to build trust between the client, the advocate and the Department.

Standards of Advocacy

19. As noted above, many contemporary clients are wary of seeking assistance where they cannot be assured of the quality of that assistance. Again, anecdotal evidence from Departmental claims officers suggests that there are a number of advocates that do not properly understand the provisions of the MRCA and the way in which it interacts with the precedent Acts.

20. Addressing the issue of accreditation of advocates may go some way towards meeting the expectations of the contemporary clients. Until recently there has been a general opposition to having a proper accreditation process for advocates. However, at a recent ESO Round Table (ESORT) forum, the ESOs expressed a desire to move towards accreditation, and a small working party was set up to work with the Department to develop this approach. Significant work still needs to be done to establish the accreditation system.

21. A move to accreditation, which would provide some certainty and consistency of quality advocacy services, is seen as highly desirable and may be an essential element of some of the options canvassed in this paper.
Veterans’ Advocacy Internationally

22. Australia is not unique in the challenges it is facing. In November 2012 a Senior International Forum and a Ministerial Summit was held that included representatives from veterans’ affairs agencies from the United States of America, Canada and New Zealand. One of the topics at the forum was “Are The Services Provided By External Organisations Meeting The Changing Needs Of Our Clients” and included discussion on the roles of ESOs and advocacy. All countries involved reported experiencing similar issues to Australia.

Options for a New Advocacy Model

23. At this time, DVA does not have any specific position on what form any new model should take. The following options are not exhaustive and are put forward to promote discussion and feedback that will assist the Government’s consideration of alternative advocacy models.

Option One – Status Quo

24. The first option is to maintain the status quo and let the situation evolve naturally. Those ESOs that can adapt and provide quality representation will continue to be relevant.

25. While DVA does not have a preferred option, this is seen as a poor choice. It does not address:
   - the emerging issues;
   - the difficulties ESOs are having recruiting new advocates;
   - the standard of advocacy;
   - the knowledge gap of some ESO representatives of the SRCA and MRCA; and
   - DVA’s desire to assure all clients have access to high quality assistance.

Option Two – Consolidation

26. As ESOs continue to struggle to attract new people to take up volunteer advocacy work, their ability to provide services will diminish along with the knowledge and experience as the current group age and their involvement in advocacy reduces or ceases.

27. As per the latest BEST funding guidelines, ESOs could continue to be encouraged to consolidate or rationalise their advocacy services into joint centres. By pooling their resources, individual ESOs will not need to maintain a full advocacy service and provide training for new advocates. A joint centre would bring together the most experienced advocates who could mentor the new advocates as they come through the system.
28. ESOs in Victoria currently have a similar system under the Veterans’ Support Centre banner. Legacy is moving to begin rationalising advocacy across its clubs. Other ESOs at state or regional levels are joining their efforts in a similar vein.

29. BEST funding could be redirected away from individual ESOs to support the joint centres.

30. This option may take some time to implement, requiring significant support from the ESOs, and may not address the issues surrounding complex claims and the standards and future of advocacy.

**Option Three – Reduced Role for Advocates**

31. This option proposes that advocates take on an enabling role by submitting the claim with just the basic details, such as the completed claim form and an attribution statement\(^1\), without becoming involved in the investigation process. This provides the DVA claims assessor with sufficient information to begin investigation of the claim without taxing the resources of the ESO advocates.

32. Advocates would not require an extensive knowledge of the legislation and claims process, allowing for ESOs to direct basic claims work to their less experienced advocates. Advocates with greater knowledge and experience could concentrate on more complex claims or those going through the appeals process.

33. This model would free up the ESO’s time, which could be utilised to focus on the provision of welfare and other services. It would also make greater use of trained DVA staff who understand the complexity and interaction between the three Acts.

**Option Four – Setting Standards for Advocacy**

34. This option is aimed at improving the standard of advocacy for the appeals process, in particular for MRCA claims being reviewed at the Veterans’ Review Board (VRB). It proposes that only advocates who have acquired a certain degree of proven experience and knowledge are permitted to represent clients at the VRB.

\(^1\) An attribution statement is the claimant’s explanation or reason of how or why they believe the condition being claimed has been caused or contributed to by their service.
35. Possible options for how an advocate could be approved as meeting this standard include:
   - completing a certain level of TIP training, either face to face or on-line;
   - successfully completing the Tribunal Advocacy Course (TAC) which trains and prepares experienced advocates for the higher level appeal processes at the VRB and AAT.
   - being certified by DVA or the VRB as sufficiently competent to appear before the VRB; and
   - being certified by the parent ESO as competent to represent at this level.

36. With regard to being certified by the parent ESO as competent, this is not referring to the certification needed to receive professional indemnity insurance available through the Veterans' Indemnity and Training Association Inc (VITA). Rather, it is confirmation of an appropriate level of competence for representation at the VRB level. Recent ESORT discussion about accreditation indicates ESOs are willing to move in this direction, which in the past has been rigorously opposed by TIP and ESOs.

Option Five – Spoke and Hub

37. Some ESOs are already changing the way in which they deliver their advocacy services to meet the challenges presented through declining numbers of people volunteering to be advocates. Legacy is moving towards a model that can be described as Spoke and Hub.

38. In some ways it is similar to the Option Three model detailed above. In essence, advocates (spoke) collect the basic claim details from the applicants and send them in to a main centre (hub) for vetting by more experienced or accredited advocates. Any issues that are identified are referred back for correction and/or additional information before the claims are submitted to DVA for processing.

39. This model allows for centralisation of the knowledge and experience base (in the hub) and does not require the people assisting the applicants (spokes) to be experts. It also allows for a feedback mechanism to continually improve the quality of the claims received.

Option Six – Veterans’ Advocacy Centres

40. Veterans’ Advocacy Centres would be Government-funded centres similar to other Community Legal Centres (CLC). Unlike Option Three, consolidation into joint centres, Veterans’ Advocacy Centres would not be run by the ESOs. Instead, it would be an independent organisation, perhaps headed up by a person with legal qualifications, that contains a combination of paid professional staff and volunteers. The volunteers could be sourced from current and future ESO advocates.

41. The combination of volunteers and professionals would allow for simpler claims to be dealt with by the less experienced volunteer group with the more
complex claims able to be referred on to the professional staff or more experienced volunteer advocates. The latter group would be able to provide quality advice and advocacy services in relation to the MRCA, SRCA and complex transitional issues. Additionally, the centres would be able to provide training and certification of advocates.

42. Funding for CLCs often comes from a variety of sources and funding for the proposed centres could be provided by both Government and ESOs.

43. Some information on CLCs is provided at Attachment A. This information has been sourced from the National Association of Community Legal Centres website.

Option Seven – Canadian Model

44. One option is to adopt/adapt the Canadian advocacy model. Veterans Affairs Canada (VAC) includes a branch called the Bureau of Pensions Advocates (BPA). While part of VAC, it operates at arms length, reporting directly to the Associate Deputy Minister of Veterans Affairs.

45. The BPA is not involved in submitting primary claims but provides free legal help for people who are not satisfied with decisions about their claims for disability benefits.

46. BPA has 14 District Offices across Canada, each staffed by at least one lawyer, as well as an Appeal Unit in Charlottetown comprised of a team of lawyers. In total there are approximately 90 fulltime staff of which 25 are lawyers. All Pensions Advocates are lawyers and members of their respective law societies. Given their experience in pension matters, they are considered specialists in the area of disability pension claims. The Bureau represents between 90% - 95% of all claims that proceed to the Veterans Review and Appeals Board (VRAB).

47. The BPA is also very active in out-reach programs that provide information and education to potential clients, participating in seminars on behalf of the Department for active and retired members of the Canadian Forces, Royal Canadian Mounted Police personnel and Veterans' organizations.

48. In addition to advocates, there are also Pension Officers whose role is to explain decisions to the applicants.

49. Some information on the BPA is provided at Attachment B. This information has been sourced from the Veterans Affairs Canada website.

50. DVA currently provides for staff to visit military bases on a regular basis through the On Base Advisory Service (OBAS). To enhance the Canadian model, the OBAS could come under this branch with an increased role for these staff to include providing assistance with completing and lodging claims. They would not lead the clients, instead taking a more active role beyond just providing the claim forms and explaining the process.
51. ESOs still have a role in advocacy under this system. The Royal Canadian Legion’s Service Bureau Network Service Officers assist and represent serving Canadian Forces members, Veterans, Royal Canadian Mounted Police members and their families regarding disability claims or related issues with VAC and the VRAB. They provide professional counselling, and representation services at all stages of the disability claim process.

52. This option differs from Option Six (Veterans’ Advocacy Centres) in that it would be funded by DVA and not subject to external funding, does not engage volunteers and does not incorporate ESOs.

**Option Eight – Advocacy Agency**

53. This option involves establishing a dual-purpose government funded independent agency to provide advocacy services for veterans and training for DVA staff involved in the claims process.

54. Advocacy services would be provided by a combination of paid professional staff with legal qualifications. This would cater for the preferences of the contemporary group who are less inclined to join ESOs than previous veteran cohorts. By providing an independent advocacy agency, contemporary veterans could access up-to-date information and advice about what is of interest to them: rehabilitation services in order to continue their ADF career or transition into new career.

55. Training for DVA staff would incorporate the technical aspects of the MRCA, including a focus on appeals and reconsiderations. It is envisioned that this training, if appropriate for an external audience, may also be useful for current or future advocates to familiarise them with the MRCA and the claims process.

56. The independent advocacy agency has similarities to the previous options including:
   - redirecting BEST funding away from individual ESOs to a central body (Option Two - Consolidation);
   - training current and future advocates in preparation for appearing before the VRB. By requiring certification, representing a certain level of knowledge and experience, the standard of advocacy would improve (Option Four – Setting Standards for Advocacy); and
   - a government funded centre staffed with people with legal qualifications (Option Six – Veterans’ Advocacy Centres).

57. Establishing a central agency coordinating advocacy delivery and the training for everyone involved in the claims process would facilitate consistency of advice given and decisions made. This would improve the advocacy process experience for claimants and DVA staff.
Summary

58. The purpose of this paper is to initiate discussion and receive feedback on the various options for an alternative advocacy model. These are:
   1. Status quo
   2. Consolidation
   3. Reduced role for advocates
   4. Setting standards for advocacy
   5. Spoke and Hub
   6. Veterans’ Advocacy Centres
   7. Canadian model
   8. Advocacy Agency

59. This is not intended to be an exhaustive or closed list of options and any other proposals that come to light through the consultation process will help inform the advice provided to Government. A combination of options may be required to address the pressing issue of the future of veterans’ advocacy.
Community Legal Centres

Community Legal Centres (CLCs) are independently operating not-for-profit, community-based organisations that provide legal services to the public, focussing on the disadvantaged and people with special needs.

Some CLCs offer specialist legal services in areas such as child support, credit and debt, environmental law, welfare rights, mental health, disability discrimination, tenancy, immigration, employment, the arts, etc. Some CLCs provide services targeted to particular groups, such as Aboriginal and Torres Strait Islander people, children and young people, women, older people, refugees, prisoners, and the homeless. There are around 200 CLCs across Australia.

The clients of CLCs are those who face economic, social or cultural disadvantage, are often experiencing multiple inter-related problems, and frequently their legal problem may affect their and their family’s entire life circumstances.

In 2010/2011, CLCs

- provided over 164,000 information, support and referral services
- provided more than 244,000 individual services
- worked on over 72,000 individual cases
- concluded 3,641 community legal education projects (and worked on many others into the new year)
- finalised 1,276 law or policy reform projects (and worked on many others into the next year).

Community

CLCs are located throughout Australia in urban, regional and remote locations. They are part of their communities and respond flexibly to the changing needs of those communities, offering creative, effective and targeted solutions to legal problems. CLCs also consult and involve their communities in their operations and management, always striving to make their services accessible and appropriate, to listen to their communities about their understanding of their needs and the solutions they want. It is the relationship with their community that distinguishes CLCs from other legal services.
While providing legal services to individuals, CLCs also work beyond the individual. CLCs undertake community development, community legal education, capacity building and law and policy reform projects that are based on people’s needs, are preventative in outcome and strengthen and empower the community they serve.

**Working with others**

Some CLCs receive no or very little funding and are largely or entirely staffed by volunteers. All other CLCs receive funds from a variety of sources including state and federal governments and philanthropic organisations. The sector harnesses the energy and expertise of thousands of volunteers across the country. CLCs are committed to collaborating and working in partnership wherever possible, with government, legal aid and other publicly funded legal assistance service providers, pro bono contributors, the private legal profession, community services agencies and other community partners to ensure the best outcomes for their clients and prevent social exclusion.

**Further reading**

If you are interested in a reading guide, about the CLC sector and its development please open the link: CLC reading guide (guide compiled by the Federation of Community Legal Centres (Victoria) Inc)

CLCs are committed to striving for equitable access to the legal system and justice, and the equal protection of human rights.

Welcome

The Bureau of Pensions Advocates (BPA) is a unique, nation-wide organization of lawyers within Veterans Affairs Canada.

The Bureau provides free legal help for people who are not satisfied with decisions about their claims for disability benefits.

The BPA Team

The Bureau operates under the direction of the Chief Pensions Advocate, who is the overall manager of operations and is assisted by two Regional Managers.

BPA also has 14 District Offices across Canada, each staffed by at least one lawyer, as well as an Appeal Unit in Charlottetown comprised of a team of lawyers.

All Pensions Advocates are lawyers and members of their respective law societies. Given their experience in pension matters, they are considered specialists in the area of disability pension claims.

If you seek assistance from BPA, you will be treated the same as if you were hiring a private lawyer to represent you. The solicitor-client relationship between you and your lawyer ensures that your confidentiality will be fully respected.

BPA Responsibilities and Initiatives

The Bureau represents between 90% - 95% * of all claims that proceed to the Veterans Review and Appeals Board (VRAB), which is an independent, tribunal that makes decisions on reviews and appeals of disability pensions and final appeals on war Veterans allowances.

If you come to the Bureau, our staff will research the condition you wish to review or appeal. This will help determine if supportive evidence is needed, such as medical reports or documentation by consultants.

The Bureau is very active in out-reach programs that provide information and education to potential clients, participating in seminars on behalf of the Department for active and retired members of the Canadian Forces, Royal Canadian Mounted Police personnel and Veterans’ organizations.

The Bureau also provides advice and assistance to other departmental committees, Members of Parliament, MLA’s and client representatives who have questions on behalf of their constituents.

*Note: Claimants who proceed to VRAB may wish to retain their own legal advisor, seek representation from the Royal Canadian Legion, or represent themselves.
The Review and Appeal Process

If you have concerns about any decision received from VAC regarding your application for disability benefits, you may request the legal services of BPA without charge. Your BPA lawyer will inform you of your options.

In some cases, after careful evaluation of the claim, your lawyer may recommend that you not proceed with a review or appeal. Ultimately, however, you will decide whether to proceed or not.

If you decide to proceed with a claim, the following ways for review and appeal may be available:

- Departmental Review
- Review Hearings
- Appeal Hearings
- Judicial Review
- Authority to Release Medical Information Form

Departmental Review

If you have important new evidence after receiving a decision that you are not satisfied with, you have the option of having your claim reviewed again by VAC through a written submission called a Departmental Review. Instead of a departmental review, your case could proceed before a Review Panel of the Veterans Review and Appeal Board (VRAB), which is an independent federal tribunal.

Review Hearings

At VRAB Review Hearings you may attend in person before members of the Board (usually two) at VAC's expense. The lawyer will conduct the hearing by going through the documentation in your file with the Board members, asking questions of you and/or any witnesses, introducing new evidence, and making oral argument on your behalf. If you are unable to appear personally due, for example, to illness, your lawyer may proceed in your absence, with your consent. You may be permitted to testify by telephone, if you have the agreement of the Board.

The Bureau represents as many as 600 clients a month before Review Panels. A centralized computer tracking system allows the Bureau's Head Office to determine the number of claims pending hearing across Canada. Hearing schedules are prepared two to three months in advance, depending on the case load in each area. You will be given plenty of advance notice of your hearing and it will be scheduled at a time and place as convenient for you as possible.

The Bureau has a service standard of 21 weeks for Review Hearings. This time is calculated from the date you contact the Bureau to the date your case is ready for hearing minus the time it takes to obtain necessary medical or other supporting information. The VRAB is usually able to provide a written decision within 6 weeks of a hearing, so you will probably know the outcome of your case within six months of first approaching the Bureau.
**Appeal Hearings**

If you are not satisfied with the decision of the VRAB Review Panel, you have the right to appeal that decision to the Appeal level of the VRAB. You may also be represented by a BPA lawyer at this stage, at no charge. Appeal Hearings are held in Charlottetown before a different panel from your Review level hearing. At the Appeal level, Bureau lawyers file a written submission with the VRAB prior to the hearing. Written or oral arguments are made by lawyers at the hearing, and other important written information can also be submitted.

On average, the Bureau presents 200 claims a month before an Appeal Board. You can expect a 21 week turnaround time for appeal hearings (calculated from the date you contact the Bureau to the date your case is ready for hearing minus the time it takes to obtain information to support your case). Again, the VRAB is usually able to give a written decision within 6 weeks of a hearing.

Decisions of the VRAB Appeal level are normally final and binding, however, there are provisions in the *Veterans Review and Appeal Board Act* that allow the Board to reconsider the matter if there has been an error of fact, error of law, or if new, significant evidence is brought forward. These reconsiderations are not automatic.

The role of the Bureau throughout this process is to provide clients with the best advice and representation possible. If your lawyer, on a detailed review of the documentation, concludes that your claim will probably not be successful, the lawyer will let you know and suggest that you not move forward. However, the ultimate decision rests with you as to whether or not to proceed.

**Judicial Review**

In very rare cases, you may be able to refer your claim to the Federal Court of Canada for Judicial Review. This approach may be considered in situations where you feel that the Board has made an error in law or in fact, or has overlooked significant facts that may have far-reaching effects on a larger class of clients. This usually involves an issue of interpretation of specific laws. If the Federal Court determines that the Board has erred, the case can be referred back to the Board for re-hearing. Your BPA lawyer will advise you if she or he thinks that this is a good option for you.

http://www.veterans.gc.ca/eng/department/organization/bpa1