

3 February 2017

Committee Secretary
Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Senate Inquiry request for Additional Submission for the Inquiry Into the Provisions of the Veterans' Affairs Legislation Amendment (Digital Readiness and Other) Measures Bill 2016.

In response to the Committee's request for further information addressing the Schedule 2 provisions, please find attached my office's additional submission to the Senate Inquiry into the Provisions of the Veterans' Affairs Legislation Amendment (Digital Readiness and Other) Measures Bill 2016, which is currently being conducted by the Senate Standing Committee on Foreign Affairs, Defence and Trade.

I trust this submission will be of assistance to the Committee's Inquiry into this important topic.

If you would like to speak to my office regarding this submission, please contact Mr Rodney Lee Walsh on (02) 6276 0107. If the committee would like to speak to me directly, I can be contacted on (02) 6276 3707.

Yours sincerely



Richard Glenn
Acting Commonwealth Ombudsman



**Additional Comments by the
Commonwealth Ombudsman**

**INQUIRY INTO THE PROVISIONS OF THE
VETERANS' AFFAIRS LEGISLATION
AMENDMENT (DIGITAL READINESS AND
OTHER MEASURES) BILL 2016.**

Additional Comments by the Acting Commonwealth Ombudsman,

Mr Richard Glenn

February 2017

The Commonwealth Ombudsman notes the further request from the Senate Standing Committee on Foreign Affairs, Defence and Trade Inquiry into the provisions of the Veterans' Affairs Legislation Amendment (Digital Readiness and Other Measures) Bill 2016 to provide comment on Schedule 2 of the Bill.

RESPONSE TO REQUEST TO ADDRESS SCHEDULE 2 AND ITS PROPOSED INFORMATION SHARING PROVISIONS

The provisions under Schedule 2 of the Bill raise a number of issues from an information and privacy perspective that may warrant further consideration and guidance.

Vulnerability of veterans and ex-service personnel

The Department of Veterans' Affairs has identified that the veteran community is often mistrusting of Government and Commonwealth agencies and this makes it difficult to engage with the community and provide services. Any measures undertaken that impact the trust and confidence of the veteran community have the potential to jeopardise the uptake of services specific to the community. Accordingly, any new measures should be given consideration of their potential impact.

Effect of new provisions

The Explanatory Memorandum for the Bill indicates that the provisions of Schedule 2:

are designed to overcome an anomaly that currently exists between the MRCA and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (SRCA). The anomaly is that the Military Rehabilitation and Compensation Commission is unable to provide the same sort of information to the Secretary of the Department of Defence or the Chief of the Defence Force under the SRCA about current serving members as it is able to under the MRCA [pg 4].

The Ombudsman observes that the amendments in Schedule 2 appear to exceed this and would allow the Secretary to release sensitive personal information to the public at large where he or she is of the view that it is in the public interest to do so. The Ombudsman is concerned that the release of an individual's personal information has the potential to adversely affect veterans and ex-service personnel, particularly those who are already vulnerable.

The anomaly could be overcome by mirroring the existing MRCA provision (section 409) in the SRCA and VEA, rather than introducing new expanded provisions to all three pieces of legislation.

Involvement of the OAIC

The issues of privacy and the disclosure of personal information fall under the jurisdiction of the Office of the Australian Information Commissioner (OAIC). Therefore any development of legislation or policy by a Commonwealth agency should be considered in consultation with OAIC.