



Australian Government

Review of statutory timeframes

Military Rehabilitation and Compensation Act 2004

Report – June 2014

Military Rehabilitation and Compensation Commission



Australian Government

**Military Rehabilitation and
Compensation Commission**

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Parliament House
CANBERRA ACT 2600

Dear Minister

On 27 June 2013, the previous Government requested that the Military Rehabilitation and Compensation Commission examine options for the introduction of statutory timeframes under the *Military Rehabilitation and Compensation Act 2004* and provide a report to Parliament by 1 July 2014.

The Commission is pleased to present its report.

A handwritten signature in black ink, appearing to read 'S. Lewis', written in a cursive style.

S. Lewis PSM
Chair

3 June 2014

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1. ABBREVIATIONS

ADF	Australian Defence Force
AAT	Administrative Appeals Tribunal
Defence	Department of Defence
DVA	Department of Veterans' Affairs
ESO	Ex-Service Organisation
KPI	Key Performance Indicator
MRCA	<i>Military Rehabilitation and Compensation Act 2004</i>
MRCC	Military Rehabilitation and Compensation Commission
SRCA	<i>Safety, Rehabilitation and Compensation Act 1988</i>
TTTP	Times Taken to Process
VEA	<i>Veterans' Entitlements Act 1986</i>
VRB	Veterans' Review Board

2. OVERVIEW

Background

2.1 During the consultation period for the Review of Military Compensation Arrangements (MRCA Review) in 2009-10, three submissions raised concerns about the time taken by the Department of Veterans' Affairs (DVA) to process claims under the *Military Rehabilitation and Compensation Act 2004* (MRCA).

2.2 Recommendation 16.6 of the MRCA Review stated that the Military Rehabilitation and Compensation Commission (MRCC) should develop provisions for reporting to Parliament on times taken to process (TTTP). The previous Government deferred its response to the recommendation until a decision on the implementation of reporting provisions and statutory timeframes under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) had been made.

2.3 A number of the MRCA Review's recommendations were addressed in the Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Bill 2013. On 21 March 2013, the Senate referred the Bill to the Senate Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report. The Committee reported back to the Senate on 17 June 2013.

2.4 Although the Committee recommended the passage of the Bill, it stated that the Government should monitor the timeliness of claims processing and in the event of no improvement, further consideration should be given to the establishment of statutory timeframes.

2.5 On 27 June 2013, Senator Nick Xenophon proposed amendments to the Bill, establishing statutory timeframes for the determination and reconsideration of liability claims under the MRCA and defence-related liability claims under the SRCA. Under his proposal, claims would be deemed rejected if not determined within 120 days if no further information had been requested from the claimant or 180 days if further information had been requested. It was also proposed that the MRCC be required to make a decision on a reconsideration within 30 days if no further information had been requested from the claimant or 60 days if further information had been requested. The amendments were not agreed to in the Senate and the Bill was passed in its original form.

2.6 In response to the Committee's report and Senator Xenophon's amendments, the previous Government asked the MRCC to examine options for the introduction of statutory timeframes and provide a report to Parliament by 1 July 2014.

2.7 This report is the result of the MRCC's examination into statutory timeframes. The report has been prepared with assistance from DVA.

Purpose and Methodology

2.8 This report assesses the potential impact on stakeholders and TTTP of the application of statutory timeframes to MRCA initial liability claims processing.

2.9 In the MRCA claims process, the MRCC's primary concern is the claimant. Consequently, this report specifically focuses on identifying the impacts of statutory timeframes on claimants.

Scope of the report

2.10 The report considers:

- What are statutory timeframes?
- How do statutory timeframes work?
- How have statutory timeframes been used in other schemes?
- Reasons for and against the application of statutory timeframes to the MRCA initial liability assessment process.

2.11 These issues are considered in the context of the following assumptions:

- DVA staffing and resourcing available for MRCA claims processing remains relatively constant; and
- existing business processes for initial liability assessment remain in place.

Out of scope

2.12 This report is primarily concerned with the application of statutory timeframes to the MRCA initial liability claims process and the associated impacts on stakeholders and TTTP.

2.13 Consequently, the report does not consider the introduction of statutory timeframes in relation to other claims or assessment processes, such as determination of incapacity payments or permanent impairment compensation, under the MRCA or claims under other legislation administered by DVA.¹

2.14 Additionally, the identification of new approaches, or assessment of existing processes, to improve TTTP is not included. This work is the subject of existing initiatives underway within DVA (refer to Appendix 2 for additional information).

¹ The introduction of statutory timeframes to the MRCA however would result in consideration of applying statutory timeframes to the VEA and Part XI of the SRCA, which relates to the Australian Defence Force.

3. INTRODUCTION TO MRCA CLAIMS PROCESSING

MRCA framework

3.1 The MRCA provides rehabilitation, medical treatment and compensation for members and former members of the Australian Defence Force (ADF), their dependants and other eligible persons in respect of injury, disease or death related to service rendered on or after 1 July 2004 (or before and on or after 1 July 2004).

3.2 The manner in which delegates of the MRCC determine claims under the MRCA is underpinned by the longstanding philosophy of the repatriation system.

Overview of the repatriation system's philosophy

3.3 The original Repatriation Department (later renamed as DVA) was established in 1918 on the proposal of Senator Edward Millen, the first Minister for Repatriation, as an *'earnest attempt to meet the nation's obligations to those who on its behalf have gone down into the Valley of the Shadow of Death.'*²

3.4 This obligation required a strong repatriation philosophy that acknowledged the special sacrifice made by the armed forces in defence of Australia. Consequently, repatriation legislation established the principle that the Australian Government had an obligation to sufficiently provide for those who risked everything and lost much in serving their country.

3.5 In 1975, Justice Paul Burcher Toose conducted an independent non-parliamentary inquiry into the repatriation system and produced a report of his findings. His report outlined a set of basic principles, which have underpinned the Australian repatriation system since its inception³. These principles affirmed that:

- Australia is indebted to those who served in the armed forces and has a duty to ensure those that served, and their dependants, are properly cared for on a long term basis; and
- benefits should be made available as a matter of right and not as a welfare handout, and in cases of doubt, the doubt should be resolved in favour of those claiming to be entitled.

3.6 These principles also imposed a number of obligations on the Australian Government to make various repatriation arrangements, including:

- benefits should be provided regardless of whether similar benefits are available to civilians in relation to injuries or illnesses arising in civil life;
- entitlements should be based on an identifiable relationship between service and the resulting injury or disease;

² Department of Veterans' Affairs, Annual Report 2011-12, DVA, Canberra, 2012, p. 17.

³ The Hon Justice P B Toose C.B.E, *Independent Enquiry into the Repatriation System*, AGSP, Canberra, 1975, vol. 1, pp. 40-41, 164-165.

- the provision of benefits should remain fair and consistent with the extent to which service contributes to disability and incapacity;
- rehabilitation should be a key focus to avoid long-term dependency on pensions;
- the administration of repatriation benefits should be adjusted to meet the changing needs of clients; and
- benefits should be administered by a single-purpose Department.

3.7 Although the Government of the day did not specifically endorse Justice Toose's principles, successive Governments continued to follow them.

3.8 The 2003 Clarke Review of Veterans' Entitlements affirmed the essence of Justice Toose's principles and stated what it considered was the essential core principle of the repatriation system:

*The Government, in expression of the nation's debt of gratitude, shall provide a beneficial level of compensation and support to veterans and their dependants for incapacity or death resulting from service in the armed forces during times of war or of conflict or in warlike and non-warlike operations.'*⁴

3.9 This longstanding philosophy is reflected in DVA's current Service Charter which is 'to support those who serve or have served in defence of our nation and commemorate their service and sacrifice'. The rights of DVA's clients under the Service Charter include the right to fair and unbiased assistance and decision-making, a clear explanation of the reasons for decisions, and the ability to have decisions reviewed or reconsidered. All of these elements demonstrate the Department's client-centric focus.

3.10 The Department's recently updated strategic plan, *DVA Towards 2020*, also reiterates DVA's primary strategic goal as being to serve the Department's clients and ensure they receive the highest level of service and support. The strategic plan emphasises DVA's core strategy as one that is client-focused, responsive and connected.

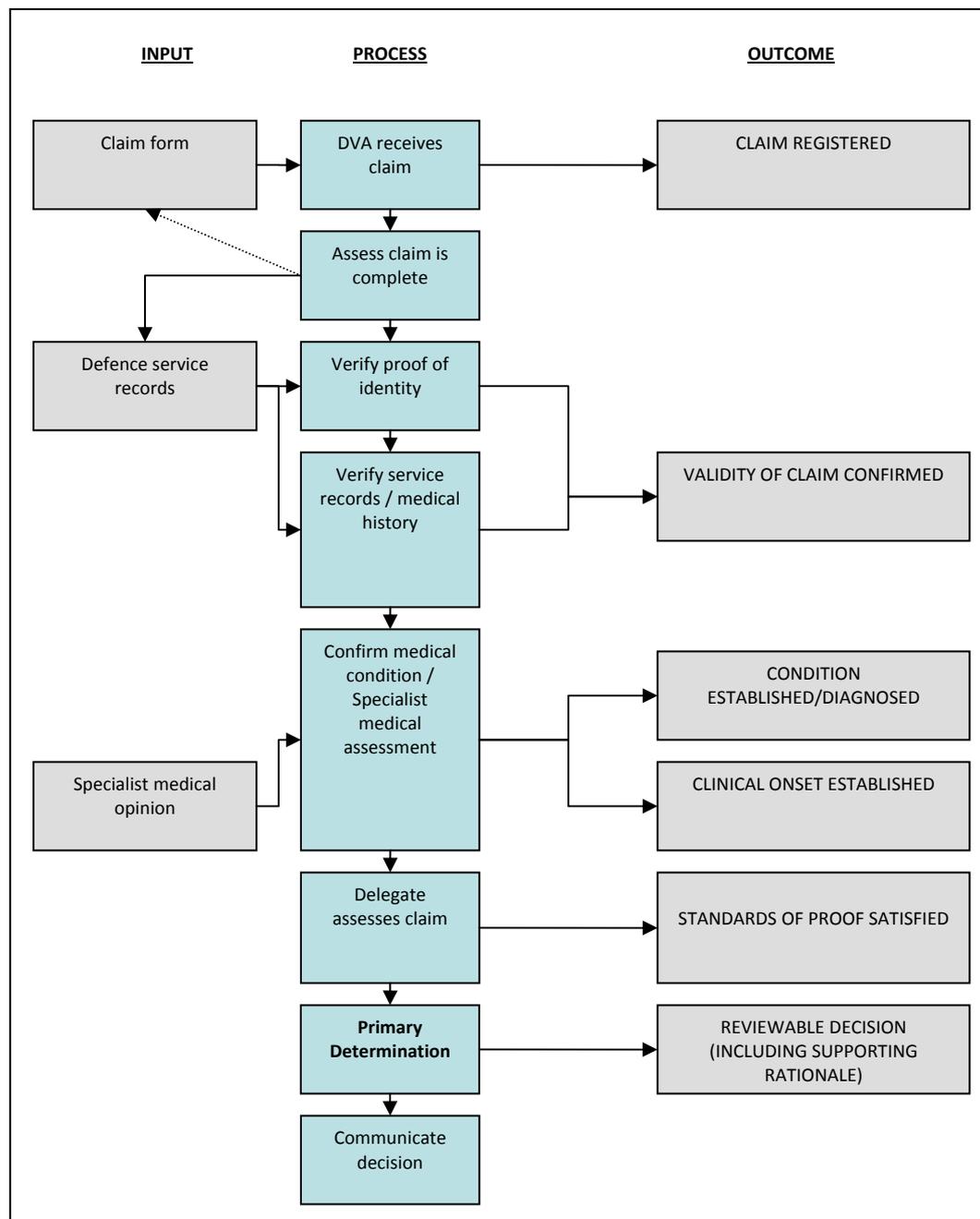
3.11 The founding philosophy of the repatriation system guides the way the MRCC approaches claims processing. The Department appreciates that each claimant's circumstances are different and that every claimant needs to be treated on an individual basis. In each determination, delegates work to provide claimants with their correct entitlements and to assist them to receive benefits as early as possible.

⁴ The Hon J Clarke QC, D Riding & D Rosalky, *Report of the Review of Veterans' Entitlements*, Commonwealth of Australia, Canberra, 2003, vol. 1, p. 101.

Overview of MRCA initial liability claims processing

3.12 Initial liability claims processing under the MRCA concludes in a determination being made by a delegate. The process is represented in the diagram below:⁵

Diagram 1



3.13 Sections 324 and 333 of the MRCA stipulate that the delegate is required to investigate and consider all matters to which the claim relates in making a determination. Further, although the delegate is not bound by technicalities, all decisions must be made according to substantial justice and the substantial merits of the case (s. 334). Acceptance of a claim must also be decided by satisfying the relevant standards of proof and in accordance

⁵ This process is not always linear as some steps can occur simultaneously.

with the Statements of Principles. Once a delegate has made a determination, reasons for the decision must be provided to the claimant.

3.14 Where liability has been accepted, the primary decision provides a basis for subsequent steps in the compensation and rehabilitation process. Where liability has been rejected, the primary decision provides a basis for potential further consideration through the appeals process.

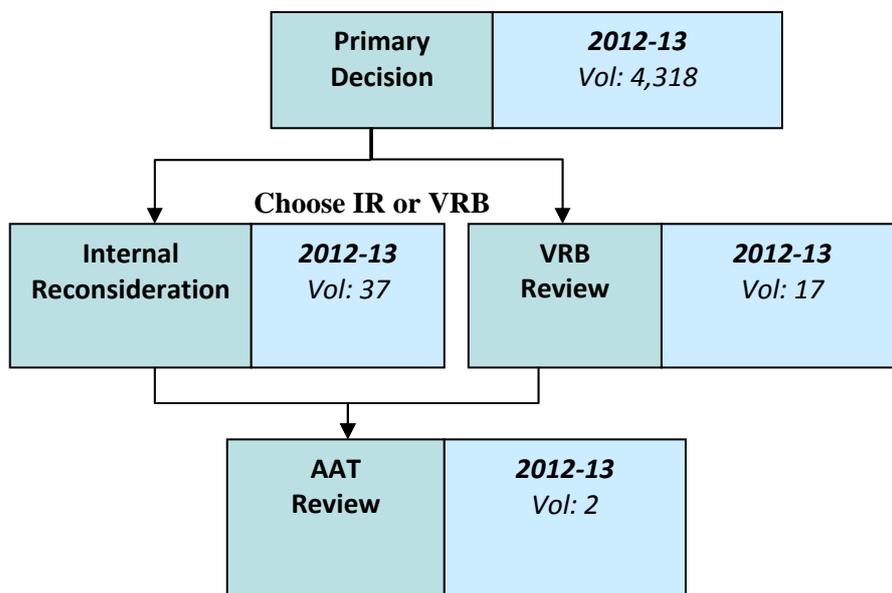
Appeals process

3.15 Under the MRCA framework, there are two pathways available to an applicant to appeal a determination:

- internal reconsideration of the determination by DVA and then, if dissatisfied, review by the Administrative Appeals Tribunal (AAT); or
- review of the determination by the Veterans' Review Board (VRB) and then, if dissatisfied, by the AAT.

3.16 Importantly, an applicant cannot access both internal reconsideration and a VRB review. The applicant must choose between the different paths. This review pathway (including claims finalised for 2012-13) is represented in the diagram below:

MRCA Review Pathway (Initial Liability)



Source: DVA internal data reporting.

3.17 To seek an internal reconsideration under the MRCA, an applicant must make a written request to the MRCC no more than 30 days after receiving notice of the decision, unless the MRCC has approved an extension of time. If the applicant is dissatisfied with the DVA internal reconsideration, the applicant can then apply to the AAT for a further review. An application for review must be lodged in writing with the AAT no more than 60 days after receiving the result of the reconsideration.

3.18 To seek a review by the VRB, the applicant must lodge a written request no more than 12 months after receiving the initial determination. If the applicant is dissatisfied with the VRB decision, they may then appeal to the AAT no more than three months after receiving the result of the review.

3.19 The MRCC may exercise its discretion to reconsider its original determination under section 347 of the MRCA. If the MRCC varies the original determination, the new determination is then subject to either the reconsideration appeal path or the review appeal path.

3.20 While there are currently two pathways available to claimants in the appeals process, work is underway on implementing a single appeals pathway model as recommended by the MRCA Review. The single appeals pathway would progress from internal reconsideration to VRB review and lastly, to the AAT.

Performance

3.21 The processing of MRCA initial liability claims is measured through a Key Performance Indicator (KPI) of the '*mean number of days to determine a liability claim under the MRCA*'. As outlined in diagram 1, the number of days covers the period from when DVA receives the claim to when a primary decision is made by a delegate.

3.22 Importantly, the current KPI of 120 days is based on mean processing time, acknowledging that some claims are likely to be more complex and time consuming than others. The target acknowledges that some claims will be processed under 120 days while some will take longer. However, the mean of all claims should be 120 days. This is a core attribute of the current KPI as it establishes a target whilst also acknowledging that processing of some claims will exceed 120 days.

3.23 Mean TTTP since the commencement of the MRCA are represented against increasing claims volumes in the table below:

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14 (MARCH YTD)
Mean TTTP	90	146	188	153	143	152	150	158	155	149
Volume of claims received ⁶	678	1,516	2,113	2,450	3,180	3,181	3,386	4,138	4,789	4,237

Source: DVA Annual Reports 2004-05, 2007-08, 2009-10, 2012-13; Review of Military Compensation Arrangements Report, vol. 2, Table 15.1, p. 195; DVA internal data reporting.

The mean TTTP KPI was met in 2004-05, with all subsequent years reporting KPI results in excess of the target of 120 days.

Influences on times taken to process

3.24 Consultation on this report identified a number of factors that can impact processing times including:

- the investigative nature of the claims process;
- the time between incident and lodgement of a claim;

⁶ Represents initial liability claims for injury and disease received rather than claims finalised.

- the complexity of claims;
- the receipt of incomplete claims; and
- the involvement of external parties, such as the Department of Defence (Defence) and medical providers, in the claims process.

3.25 There is substantial work currently being undertaken by the Department to address prolonged processing times. These initiatives include reducing the work on hand, improving client communication and engagement, improving case management practices, and reviewing and improving business practices. Further information on these initiatives is at Appendix 2.

Conclusion

3.26 The MRCC is committed to providing quality service and support to serving and former ADF members. One level of this service is timely processing of claims for initial liability. Currently, the times taken to process these claims exceed the stated target and consideration is being given to measures to reduce processing times and improve outcomes for claimants.

3.27 During consultation on the MRCA Review and debate on the subsequent legislation, it was suggested that statutory timeframes could be an appropriate measure.

3.28 The following sections outline what statutory timeframes are, how they work, and considers reasons for and against their introduction to the MRCA initial liability process.

4. INTRODUCTION TO STATUTORY TIMEFRAMES IN CLAIMS PROCESSING

What are statutory timeframes?

4.1 Statutory timeframes are prescribed timeframes established in legislation requiring decisions to be made or processes to be completed within a specified period of time.

4.2 An example of a statutory timeframe in relation to DVA claims processing is under s. 349 of the MRCA, which sets out the requirements of a request for a reconsideration of a determination.

(5) A request must:

- a) be in writing; and*
- b) set out the reasons for the request; and*
- c) be given to the Commission within 30 days after the day on which notice of the determination was given to the person making the request.*

4.3 Another example can be found in s. 137 of the *Veterans' Entitlements Act 1986* (VEA):

(1) Within 6 weeks after an application for review made under subsection 135(1), (2) or (3) is received at an office of the Department in Australia, the Secretary shall:

- a) cause to be prepared a report referring to the evidence under the control of the Department that is relevant to the review; and*
- b) subject to subsection (2), cause a copy of that report to be served on the applicant.*

Statutory timeframes can encourage timely action and increase accountability and transparency.

How do statutory timeframes work?

4.4 Statutory timeframes are common throughout workers' compensation schemes and are often used in combination with deemed decisions, whereby failing to meet a statutory timeframe results in a deemed decision being made. Common forms of statutory timeframes relate to:

- **Incident notification** - The claimant is required to notify the employer of the incident within an established period of time. If a notification is not made within the timeframe, the subsequent claim may be rejected.
- **Claims lodgement** - Claims are required to be lodged within an established period of time from the incident or onset of a condition. If the timeframe is not met, the person will not be able to submit a claim. These timeframes ensure that the assessment of the claim is based on contemporary evidence.
- **Claims assessment** - The determining authority is required to assess a claim and make a decision within an established period of time. If the timeframe is not met, a deemed decision, usually acceptance of the claim, is made. Such a timeframe establishes clear

expectations for both the claimant and the relevant authority. Similar timeframes can be applied to reconsideration, review and appeal processes.

- **Response to requests for further information** - The claimant is required to respond to requests for information within an established period of time. If the timeframe is not met, the claim may be rejected or the timeframe for the claims assessment process may be extended. Such a timeframe ensures that all information required to assess the claim is provided by the claimant in a timely manner.

4.5 Other considerations relevant to the development and application of statutory timeframes include:

- **Exemptions to statutory timeframes** - Statutory timeframes commonly have exemptions to cater for specific situations where the application of a statutory timeframe may have an undesirable result. For example, a statutory timeframe establishing a limitation period for claims lodgement may necessarily require an exemption for specific conditions that manifest a long period after employment.
- **Extensions to statutory timeframes** - Statutory timeframes commonly have specific circumstances where an extension may be requested. Such circumstances may include situations where key information has not been provided by the claimant or a third party, where the applicant has requested or agreed to an extension or where the claim is unusually complex.
- **Avoidance of perverse incentives, outcomes and behaviours** - Statutory timeframes are designed with careful consideration of relevant consequences. For example, a statutory timeframe with a deemed approval may require careful design to ensure that an incentive is not created to encourage relevant parties to withhold information or deliberately delay processes. Consequences of statutory timeframes on other processes also need to be considered. For example, a statutory timeframe with a deemed rejection determination may require careful consideration of the likely impact on reconsideration, review and appeal processes.

4.6 Statutory timeframes are viewed as particularly effective in premium based compensation schemes. This is because of the behavioural impact that statutory timeframes have on key stakeholders participating in such schemes. The following table highlights some of the impacts on stakeholders in premium based compensation schemes. These schemes have statutory timeframes resulting in a deemed acceptance of a claim.

Key stakeholder	Interest	Impact of statutory timeframe
Employer	<ul style="list-style-type: none"> • Employers do not want premiums to increase. • Employers want to know the impact of a claim on their premium as soon as possible. • Employers want the employee to return to work as soon as possible. 	<ul style="list-style-type: none"> • Employers have an incentive to provide all relevant information to facilitate a decision being made within statutory timeframes. This is because a deemed acceptance is likely to result in an increase in the employer's premium rate. • Claims are assessed quickly resulting in a faster return to work.
Insurer	<ul style="list-style-type: none"> • Insurers have a commercial interest in ensuring premiums are appropriately set to cover successful claims. 	<ul style="list-style-type: none"> • Deemed acceptance may result in accepted claims exceeding the volume anticipated in pricing of the premiums. • Accordingly, the insurer aims to minimise

		<p>the volume of deemed acceptances by ensuring quick determination of claims, or it may need to raise premiums.</p> <ul style="list-style-type: none"> Increases in premiums because of deemed acceptances may make the insurer less price competitive with other insurers utilising more efficient claims assessment processes.
Claimant	<ul style="list-style-type: none"> Claimants may be without a weekly income if injured and unable to work. Claimants may face medical expenses they cannot afford. Claimants may have limited sick leave entitlements. Access to income support and medical treatment will support a faster return to health and work. 	<ul style="list-style-type: none"> A statutory timeframe with a deemed acceptance gives certainty that an injured worker will be provided with timely access to income, medical care, and a faster return to health and work. Claimants will have improved clarity of the process and are encouraged to provide information and to lodge a claim early.

Comparison of MRCA to the SRCA and other compensation schemes

4.7 The following Australian Commonwealth, state and territory authorities administer premium based compensation schemes:

- WorkCover NSW;
- WorkSafe Victoria;
- WorkCover Queensland;
- WorkCover WA;
- WorkCover SA;
- WorkCover Tasmania;
- NT WorkSafe;
- WorkSafe ACT; and
- Comcare.

4.8 Claims processing under the MRCA is often compared to claims processing under the SRCA, administered by Comcare. The SRCA provides for the rehabilitation and compensation of injured employees of Australian and ACT Government agencies and authorities. It also covers members of the ADF under Part XI, administered by DVA, and employees of private corporations who self-insure through Comcare.

4.9 In contrast to other workers' compensation schemes, there are no statutory timeframes for determinations under the SRCA. Although the legislation allows for the introduction of statutory timeframes on determinations through regulations, such regulations have not been made. The SRCA Review, released 30 March 2013, recommended the establishment of timeframes for determining claims for injury within 30 days and claims for disease within 60 days. If the timeframes are not met, the claim would be rejected.⁷ At the time of writing, the Government is yet to respond to this recommendation.

4.10 Currently Comcare applies, in lieu of statutory timeframes, determining authority key performance indicators (DAKPIs) for the determination of claims under the SRCA. The DAKPI for injury claims is 20 days and 60 days for disease claims. In 2012-13, 76% of claims were determined within the DAKPIs, meeting the stated target of 75% of claims.⁸

4.11 The SRCA is similar to the Australian state and territory workers' compensation schemes, which have a number of important differences to the MRCA. The major difference is that MRCA is not a premium based insurance scheme. As a result, the commercial influences driving the engagement and behaviour of key participants in jurisdictional schemes are not present in the MRCA.

4.12 The Government does not set a premium or fund the MRCA through premium income. As such, there is no commercial implication at the scheme level for the Government if the volume or value of claims increase as the scheme is funded through a Government special appropriation rather than premiums. The employer (the ADF) also does not pay a premium, nor is there any form of implication for the employer in relation to the timeliness, volume or financial value of claims made.

4.13 Other notable differences between the MRCA and jurisdictional schemes are outlined below.

4.14 The role of the employer differs under MRCA in comparison to other schemes. In jurisdictional schemes, employee claims are commonly lodged immediately through the employer who subsequently lodges the claim with the insurer. In this process, relevant information and a statement regarding support of the claim is provided by the employer. The availability of such timely evidence is acknowledged as being a key factor in timely processing of claims in other compensation schemes. Under the MRCA, claimants lodge through DVA, often many years after the incident. DVA then needs to obtain and validate required information from Defence and other relevant third parties. Typically, this can involve investigation of evidence that can be difficult to obtain.

4.15 The MRCA does not impose statutory timeframes on any aspect of the claim determination process. Under other schemes, statutory timeframes commonly apply deadlines at multiple stages in the process – i.e. claim notification by the employee, claim lodgement by the employee and employer, and claim determination. The success of statutory timeframes on claims assessment in jurisdictional schemes is largely attributable to statutory timeframes applied to the notification and lodgement stages of the claims assessment process and well designed exemption and extension provisions for such timeframes to avoid perverse incentives, outcomes and behaviours.

⁷ P Hanks QC, *Safety, Rehabilitation and Compensation Act Review Report*, Canberra, 2013, p. 163.

⁸ Comcare, *Annual Report 2012-13*, Comcare, Canberra, 2012, p. 65.

4.16 Unlike other schemes that only accept lodgement of complete claims, DVA has traditionally accepted lodgement of incomplete claims, such as claims lacking proof of ADF service or a diagnosed medical condition. This is because the legislative requirements for a MRCA claim are very broad and are applied flexibly by the Department to benefit claimants. The impact of commencing assessment of incomplete claims is that they may require significant investigation to obtain the required evidence. In contrast, claims under other schemes must be completed when lodged and therefore only require determination rather than investigation.

4.17 Where other schemes start recording the time taken to process a claim from lodgement of a completed claim, DVA starts recording from the initial lodgement of a claim regardless of the level of completion.

4.18 Claims in other compensation schemes usually relate to one injury or disease whereas MRCA claims are often for multiple injuries or diseases, possibly resulting from different incidents or events over a long period of time. This can increase the amount of investigation required and result in a longer processing time.

4.19 In contrast to other schemes, claims lodged with DVA may include conditions that will be determined under different Acts. For example, a claim may have one condition determined under the VEA, another under the SRCA and a third under the MRCA. Typically, these claims are significantly more complex and require longer processing times to make a correct determination under the right Act.

5. INTRODUCTION OF STATUTORY TIMEFRAMES TO THE MRCA

5.1 From the examination of statutory timeframes in other compensation schemes, four statutory timeframe models are considered in this report for possible introduction to MRCA initial liability claims processing:

- statutory timeframe on claim lodgement;
- statutory timeframe on determination – deemed acceptance;
- statutory timeframe on determination – deemed rejection; and
- statutory timeframe on internal reconsideration.

5.2 Each of these models and the associated impacts on claims processing and stakeholders are discussed in further detail below. The models are considered in isolation from one another.

Statutory timeframe on claim lodgement

5.3 This model of statutory timeframe would limit the time in which a claimant can lodge a valid claim with the Department. If the timeframe has passed, a claimant cannot lodge a valid claim. WorkSafe ACT applies a similar timeframe where a worker has three years from the date of the injury or from when the worker becomes aware of the injury to lodge a claim for compensation. Statutory timeframes on lodgement also exist under repatriation legislation in the United Kingdom (UK). All post-2005 claims in the UK must be made within seven years of injury, or three years from the date the claimant first sought medical advice in relation to specified delayed onset conditions.

5.4 The veterans' affairs jurisdiction has previously had timeframes on claims lodgement. The original *War Pensions Act 1914* established a six month time limit from the date of discharge or death to lodge a pension claim. In 1916, this clause was amended to include discretion by the Repatriation Commission to allow claims older than six months. Although this six month limitation clause was included in the *Australian Soldiers' Repatriation Act 1920* and remained in the Act until it was repealed by the VEA in 1986, Justice Toose in 1975 reported that the clause was never applied to the claims of members or their dependants.⁹

5.5 The 1930 and 1971 predecessors to the SRCA also imposed a six month time restriction on lodging initial claims. However, when the current Act came into force in 1988, these statutory timeframes were removed to allow for a much more flexible approach to lodging compensation claims. The absence of any time restrictions on the lodgement of claims is common amongst comparable repatriation systems in Canada, New Zealand and the United States of America (USA).

⁹ The Hon Justice P B Toose C.B.E, op. cit., p. 131.

Advantages - claim lodgement

5.6 The introduction of a statutory timeframe for lodging a claim could provide benefits to claimants and may assist with improving TTTP. Key advantages are outlined below.

5.7 As evidence relating to events in the past can sometimes be difficult to obtain, encouragement of earlier claims through a statutory timeframe could result in more contemporary evidence, less investigation and consequently, a shorter processing time.

5.8 Early lodgement could lead to earlier determination of claims, earlier intervention and earlier access to benefits. While serving members receive health care and financial support from the ADF, an early claim for a service-related condition could result in the receiving of benefits at the time of transition, rather than going through the claims process after transition and receiving benefits at a later date. This is particularly important for members who may not be able to move immediately into civilian work following discharge because of injuries and who require financial assistance for lost earnings and medical treatment until they return to work.

5.9 Early lodgement is particularly important for rehabilitation purposes as rehabilitation cannot be provided until liability is accepted. A Veterans Affairs Canada report¹⁰ cites numerous research studies that evidence the need for timely rehabilitation programs. Early intervention shifts the focus on to rehabilitation, thus significantly improving the probability of returning to work within a reasonable time and preventing long-term dependence on benefits. It can also prevent or minimise further deteriorations of conditions and negative future impacts. The probability of returning to work after sustaining a disability drops from 50% after a six-month absence, to 20% after one year, and 10% after two years.

5.10 It is possible that a timeframe on lodgement that encouraged early rehabilitation may result in a more positive outcome for the claimant, less reliance on compensation, and a long term financial saving for the Government.

Disadvantages - claim lodgement

5.11 On the contrary, a statutory timeframe for lodging a claim could have negative impacts on claimants. Key disadvantages are outlined below.

5.12 Anecdotal evidence suggests that claims are often delayed until members are transitioning out of the ADF and there is often a long delay between the time of the injury and the time the claim is lodged. There are various reasons as to why the delay in submitting claims occurs. Many members do not see the need to claim at, or close to, the time of their injury or illness as ongoing care and support is provided by the ADF. It is only as they approach their transition out of the ADF that they consider the need for continued coverage. Some members may also not recognise the link between their injury or illness and their service, or where they do, they may not appreciate that it could entitle them to support from DVA. ADF culture may also prevent some members from claiming due to concerns of adverse impacts on future postings or promotion prospects because of their injury or disease.

¹⁰ Veterans Affairs Canada, 'Service and Program Modernization Task Force briefing, Diagnostique: evidence-based problems', 2004, as cited in WestWood Spice, 'Disability in the 21st Century – constructive approaches to disability, report to Department of Veterans' Affairs, 2008, p. 48.

5.13 While the ADF does strongly encourage members to report incidents and to lodge compensation claims during their career, a combination of these cultural factors results in many claims being lodged long after the injury occurred and often after the member has discharged. The introduction of this timeframe could result in members missing out on entitlements, including treatment for serious medical conditions. This is in stark contrast to the purpose of the repatriation system and would significantly damage the system's reputation.

5.14 Another problem associated with this statutory timeframe is that many conditions, including cancers and mental health conditions, sometimes manifest years after the event. Many recent studies evidence the development of psychological symptoms over time and delayed manifestation of mental health conditions such as posttraumatic stress disorder (PTSD). A study of USA military personnel¹¹ showed that the longer the time since deployment, the larger the number of claims submitted for PTSD. Other recent studies have identified a category of individuals who do not present any symptoms of trauma following a traumatic event but may develop PTSD in the future. In a study published in 2011 investigating PTSD in Lebanon war veterans, 16.5% of the sample population developed delayed onset PTSD, some up to 20 years later.¹² Introducing a timeframe on lodgement of claims would disregard this category of individuals and cause severe detriment to veterans suffering from PTSD and other mental health conditions with delayed onset as a result of their service. This risk could be somewhat mitigated by accounting for a range of exceptions such as delayed onset conditions, new medical research outcomes and changes in individual diagnosis.¹³

¹¹ E Packnett, M Gubata, D Cowan, & D Niebuhr, 'Temporal Trends in the Epidemiology of Disabilities related to Posttraumatic Stress Disorder in the U.S. Army and Marine Corps from 2005-2010', *Journal of Traumatic Stress*, vol. 25, no. 5, 2011, pp. 485-493.

¹² D Horesh, Z Solomon, G Zerach & T Ein-Dor, 'Delayed-onset PTSD among war veterans: the role of life events throughout the lifecycle', *Social Psychiatry and Psychiatric Epidemiology*, vol. 46, no. 9, 2011, pp. 863-870 as cited in Australian Centre for Posttraumatic Mental Health, *Integrated Literature Reviews: 2002-2012*, 2012, p. 35.

¹³ Department of Veterans' Affairs, *Review of Military Compensation Arrangements*, DVA, Canberra, 2011, p. 216.

Statutory timeframe on determination – deemed acceptance

5.15 Under this statutory timeframe model, initial liability claims would be required to be finalised within the statutory timeframe or the claim would be deemed as accepted. Examples of this model can be seen in state Government workers' compensation schemes.

Advantages – deemed acceptance

5.16 This model of timeframe could have some advantages to the MRCA initial liability process. These are outlined below.

5.17 Claimants would have improved clarity of the timeframes involved in the decision making process. Overly long TTTP can be extremely frustrating to claimants. A statutory timeframe for determination could remove the uncertainty, and any related concerns, of not knowing when a decision will be made.

5.18 Some claimants will likely receive a faster acceptance of their liability claim. This will provide them with early treatment and may result in earlier access to income support, rehabilitation and a faster return to health and work, leading to reduced downstream rehabilitation and compensation costs.

5.19 DVA may be encouraged to establish innovative business improvements that may assist in reducing TTTP.

Disadvantages – deemed acceptance

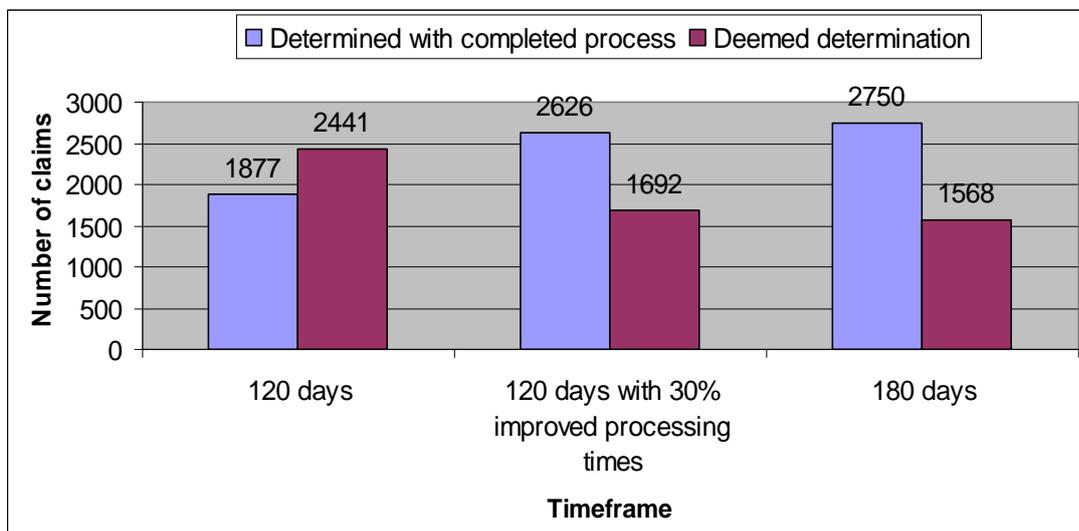
5.20 The key disadvantages associated with the deemed acceptance model are outlined below.

5.21 Some claimants lodge claims with conditions under multiple Acts. Before liability for a condition can be accepted, the relevant Act must be determined. This is a complex process and could result in many multi-Act claims exceeding the statutory timeframe. Consequently, conditions would be deemed accepted under the MRCA, while the SRCA and/or the VEA conditions may still be pending determination, creating inconsistency between the Acts. Additionally, a deemed acceptance of the MRCA claim may result in an acceptance of liability for a claimant's condition under the wrong Act, resulting in incorrect benefits and entitlements.

5.22 As has been noted, the MRCA sets out a number of requirements for making a determination, including the investigation and consideration of all relevant evidence, the establishment of a diagnosed condition and a causal link to ADF service and decisions based on the merits of the case. A deemed determination model would contradict these legislative requirements and undermine the decision making process as some determinations would be based merely on the passing of a stipulated time, rather than an assessment of the merits of the case based on the available evidence.

5.23 A consequence of decisions based on timeframes is that claims of a similar nature may result in different outcomes. Processing times can vary depending on the volume of cases on hand at any one time. Accordingly, claims lodged at one time of the year may be processed within the stipulated timeframe and an evidence-based decision of accept reached. In contrast, a similar claim lodged when there is a larger volume of claims on hand may not be processed within the timeframe and could be deemed rejected. This creates inconsistency in claim determinations and would bring the system into disrepute.

5.24 The potential number of claims that could be accepted without full consideration can be seen in an examination of initial liability claims processing from 2012-13. In 2012-13, 4,318 initial liability claims for injury and disease were finalised.¹⁴ Using the individual TTTP of the 4,318 claims, the following diagram outlines the possible impact of 120 and 180 day statutory timeframes.

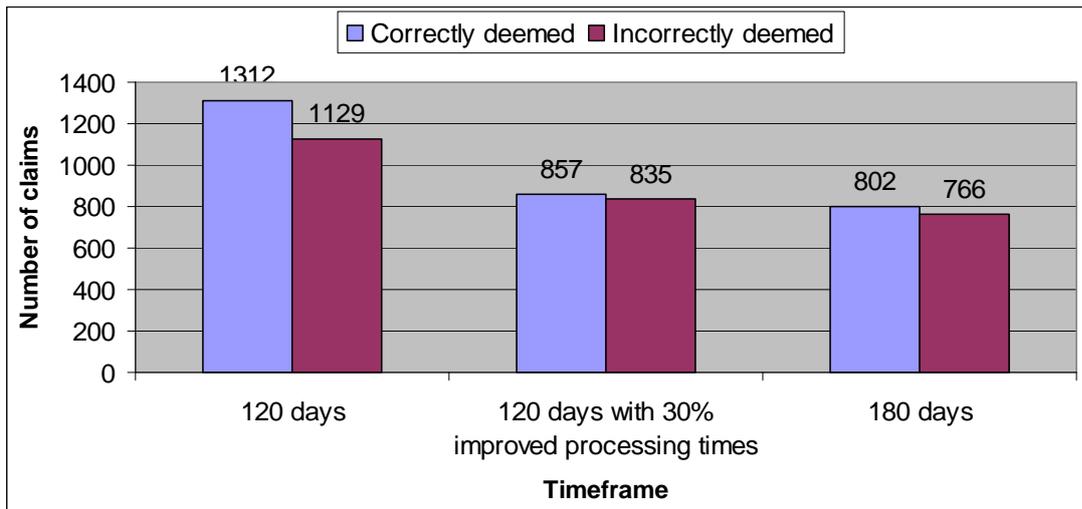


Source: DVA internal data reporting.

5.25 This diagram shows that 2,441 claims (57% of all claims determined) under a 120 day timeframe, 1,692 (39%) under a 120 day timeframe with improved processing times and 1,568 (36%) under a 180 day timeframe would exceed the timeframes and be deemed without a full determination.

5.26 As the following diagram demonstrates, it is likely that significant numbers of claims would be accepted, which would otherwise be wholly rejected, partially rejected or withdrawn if there were no statutory timeframe. In 2012-13, 1,129 claims would have been incorrectly deemed accepted (46% of all deemed claims) under a 120 day timeframe, 835 (49%) under a 120 day timeframe with improved processing times and 766 (49%) under a 180 day timeframe. This would greatly increase costs to Government and would cause significant reputational damage to the repatriation system.

¹⁴ Source: DVA internal data reporting. This differs from Page 78 of the DVA Annual Report 2012-13, which reports a total of 4332 MRCA IL claims for injury, disease and death (combined) finalised in the 2012-13 period. The 4,318 used in this report is for MRCA IL claims finalised for injury and disease only.



Source: DVA internal data reporting.

5.27 The Department may be obligated to initiate internal reconsideration of deemed acceptances to ensure the correct determination is made. In cases where liability has been accepted, claimants may have received or be receiving compensation in the form of a lump sum or regular payments. Where liability is subsequently overturned on reconsideration, DVA must cease benefits and recover any overpayments made to claimants. This can result in significant financial impacts and hardship for members of the veteran community.

5.28 Claimants or their representatives may choose to delay providing required information in order to exceed the timeframe and have the claim accepted. This may occur in instances where the claim would be rejected if a full determination was made.

Statutory timeframe on determination – deemed rejection

5.29 Under this statutory timeframe model, initial liability claims would be required to be finalised within the stipulated statutory timeframe or the claim would be deemed as rejected. An example of a scheme with this timeframe model is the *Seafarers, Rehabilitation and Compensation Act 1992*. Under this Act, liability must be determined within 12 days, permanent impairment within 30 days and claims relating to death within 60 days. If a decision is not made within the specific timeframe, the claim is deemed rejected.¹⁵

Advantages – deemed rejection

5.30 The following advantages may result from the implementation of this model of timeframe to the MRCA initial liability process.

5.31 As with deemed acceptance, there are similar advantages to the deemed rejection model. These include improved clarity of timeframes for claimants and encouragement of the development of innovative business processes.

5.32 A deemed rejection model has the specific advantage of being likely to encourage advocates and claimants to lodge completed claims or provide requested information quickly. Motivating the timely provision of information by the claimant or advocate may result in earlier access to entitlements such as treatment, rehabilitation, income support and compensation and improve processing times significantly.

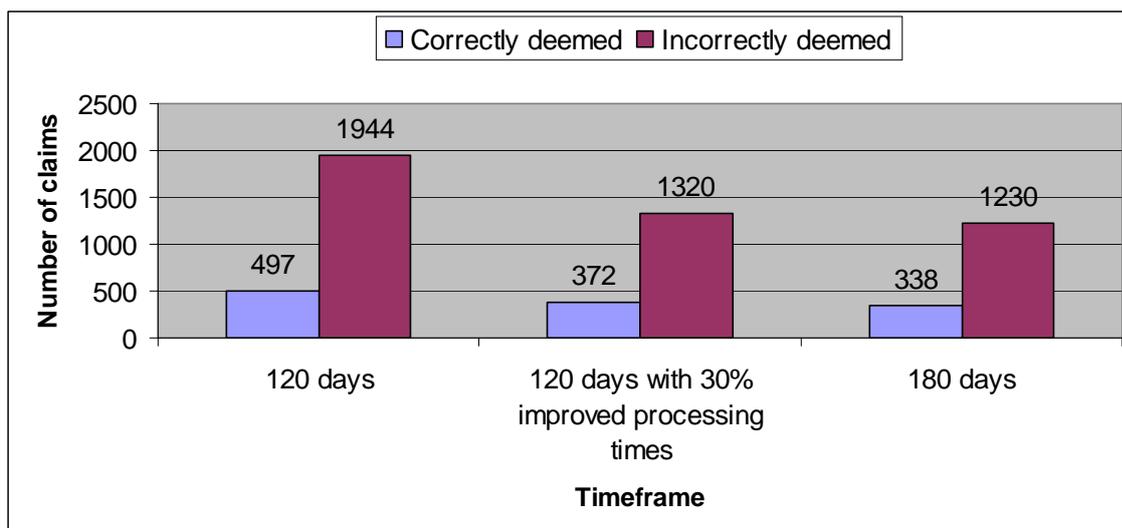
Disadvantages – deemed rejection

5.33 The key disadvantages associated with the deemed rejection model are set out below.

5.34 There are similar disadvantages to those present under a deemed acceptance model, including issues regarding determinations based on time rather than evidence, required information not being obtained and inconsistency in claim determinations.

5.35 As demonstrated in the following diagram, a deemed rejection model would result in a significant number of claimants having their claims rejected. Such claims would have been accepted had there been no statutory timeframe. In 2012-13, 1,944 claims would have been incorrectly deemed rejected (80% of all deemed claims) under a 120 day timeframe, 1,320 (78%) under a 120 day timeframe with improved processing times and 1,230 (78%) under a 180 day timeframe.

¹⁵ The timeframes under this Act only commence once the completed claim with all relevant information has been received.



Source: DVA internal data reporting.

5.36 Rejections may occur through no fault of the claimant or because of unavoidable circumstances. For example, ADF members in active service may be on deployments and unable to attend medical appointments or respond to requests in a timely manner. The consequences of a high volume of rejections would be significant. Claimants may face increased angst and additional stress as they may be worried that their claim may not be fully considered within the statutory timeframe. For claimants with mental health conditions, a deemed rejection or impending risk of a deemed rejection could exacerbate the condition. An increase in the number of rejections, particularly in situations where the merits of the case have not been assessed, would also likely bring the repatriation system into disrepute.

5.37 The potential impact of a deemed rejection model can be seen in the case study of an average claim. Currently, the average claim takes around 150 days to determine and is accepted after a full evidence-based determination. Under a deemed rejection model of 120 days, this claim would be rejected without full consideration of the merits of the claim. To access their entitlements, the claimant would need to appeal, almost certainly pushing the time period from lodgement to decision beyond 150 days. This model is likely to delay access to entitlements for a significant number of claimants, resulting in poorer outcomes.

Implication of the deemed rejection model on the appeals process

5.38 As outlined earlier, claimants can choose to appeal a determination through internal reconsideration by DVA or review by the VRB. If dissatisfied with the outcome of the reconsideration or review, the claimant can appeal to the AAT. The impact of the deemed rejection model on review processes is outlined below.

IMPACT OF DEEMED REJECTION ON THE APPEALS PROCESS

Under a deemed rejection model based on a 120 day statutory timeframe, the volume of deemed rejections in 2012-13 would be 2,441 claims (or 1,692 with a modelled 30% improvement in processing times). These claims would be rejected without a full consideration. Under the MRCA framework, the claimant has the option of requesting an internal reconsideration (37 completed in 2012-13) or review by the VRB (17 reviews in 2012-13). An implication of the deemed rejection model may be to shift the 2,441 deemed rejections from the primary determination level to the appeals pathway, potentially increasing the number of appeals from 56 to 2,497.

5.39 As observed above, the deemed rejection model has direct implications on the appeals process. These are outlined further below.

5.40 A higher volume of rejections will increase the number of appeals, shifting much of the determination workload from the primary level to the internal reconsideration and review processes. This increases the overall time for the claimant from the lodgement of their claim and further delays access to entitlements. Reviews can also be lengthy in time and an increase in reviews may overload the review system, considerably increasing the time taken to review a claim. Forcing the claimant to go down the appeals pathway to access their entitlements is undesirable.

5.41 Claims that are deemed rejected may have had minimal investigation conducted and may be lacking required supporting documentation and evidence. As appeals must be determined based on the merits of the available evidence, supporting documentation that should have been obtained and considered during the primary determination will need to be gathered and assessed. Shifting much of the investigation and information gathering process from the primary level to the appeals level will further increase the time for a determination to be reviewed and finalised. Further, costs associated with VRB reviews are significantly higher than at the primary level.

Statutory timeframe on internal reconsideration

5.42 Under this statutory timeframe model, internal reconsiderations would be required to be finalised within the stipulated statutory timeframe or the original determination would be deemed as affirmed.

RECONSIDERATIONS

The table below outlines the number of internal reconsiderations in the context of total MRCA determinations during 2012-13:

	Primary determinations	Internal reconsiderations
Total MRCA claims finalised	13286	438
MRCA initial liability claims finalised	4318	37
<i>MRCA initial liability % of total</i>	33%	8%
MRCA initial liability TTTP	155	80

Despite MRCA initial liability determinations representing 33% of all MRCA determinations in 2012-13, reconsiderations of MRCA initial liability decisions represented a relatively small component of overall reconsiderations.

Source: DVA internal data reporting.

Advantages - internal reconsideration

5.43 Advantages associated with a statutory timeframe on internal reconsideration are outlined below.

5.44 As with the deemed determination models, claimants will have greater clarity of the timeframes involved in the decision making process. This will reduce uncertainty and associated concern with the process.

5.45 The Department and individual staff may feel encouraged or challenged to devise new methods and procedures for finalising reconsiderations within the required timeframes.

5.46 Advocates and claimants may be encouraged to provide additional information quickly. Motivating the timely provision of information by the claimant or advocate would improve processing times.

Disadvantages - internal reconsideration

5.47 The key disadvantages associated with a statutory timeframe on internal reconsideration are outlined below.

5.48 A deemed decision will not result in an evidence-based determination as required by legislation.

5.49 Under a deemed affirmation of the original decision model, claimants could experience further delays in accessing their potential entitlements. They could also lose one option for an evidence-based decision at the review level and could only further appeal to the AAT. Costs for both the claimant and Department would be significant at the AAT.

5.50 Appealing a MRCA determination can require extensive investigation and evidence-gathering. Claimants and advocates may find it difficult to organise a case within the timeframes.

5.51 Internal reconsideration operates to provide the claimant with the opportunity for a considered review of a primary determination. Any model that affirms an original decision potentially removes the opportunity for an applicant to have a primary determination reconsidered, resulting in an undesirable outcome for the claimant.

Stakeholder views

5.52 During the preparation of this report, stakeholders were consulted for their views on how statutory timeframes work, where they have been used in other schemes and implications of their introduction to the MRCA initial liability process. A list of stakeholders who provided input is at Appendix 1.

5.53 Amongst these stakeholders were two law firms who interact regularly with DVA on behalf of military compensation claimants.

5.54 Slater & Gordon Lawyers supported timeframes on determination with deemed rejection and on internal reconsideration with deemed affirmation of the original decision. It was stated that these timeframes would encourage delegates to complete determinations within the timeframes and that claimants would have increased clarity of the process. Slater & Gordon favoured deemed rejection over deemed acceptance because it limits financial impacts on the Department and avoids the potential for claimants to face payment recovery because of incorrect determinations.

5.55 Maurice Blackburn Lawyers supported timeframes on determination with deemed acceptance and on internal reconsideration with deemed affirmation of the original decision. It was stated that deemed acceptance would provide better outcomes for claimants who would not be disadvantaged by processing delays. A statutory timeframe on internal reconsideration would be appropriate because the relevant evidence should have been collected during the primary determination.

5.56 Neither legal firm supported a statutory timeframe on claims lodgement because of the unique nature of military service as outlined earlier in this report. They also stated that statutory timeframes alone would not improve processing times. Suggested measures for reducing processing times included encouraging the lodgement of higher quality and more complete claims, and establishing escalation points for resolution of issues. In particular, Slater & Gordon recommended that DVA examine the financial impact of altering the funding model for advocacy services from one which is based on the quantity of claims lodged to one focused on the quality of claims lodged.

5.57 Workers' compensation authorities provided information about their schemes and the use of statutory timeframes. Some of the authorities advised of the benefits of early claims lodgement, including contemporary evidence and minimal investigation.

5.58 The Ex-Service Organisation (ESO) Round Table is the peak consultative body in the veterans' affairs portfolio. At a Round Table meeting on 14 November 2013, comments from several members indicated a reluctance to introduce statutory timeframes. Comments were made in favour of monitoring departmental initiatives to reduce processing times before any decision is taken to introduce statutory timeframes.

5.59 A formal response from the Royal Australian Air Force Association stated that statutory timeframes on the MRCA would act to the detriment of claimants and that DVA initiatives to reduce processing times are appropriate subject to monitoring and review.

Summary

5.60 Consideration has been given to four models of statutory timeframes that could be introduced to the MRCA initial liability process: claim lodgement, claim determination (deemed accept), claim determination (deemed reject) and internal reconsideration (deemed affirmation of the original decision).

5.61 A statutory timeframe on lodgement may encourage earlier submission of claims. This would lead to claimants receiving earlier access to benefits, treatment and rehabilitation which would significantly improve ability to work, prevent or minimise deterioration of conditions and reduce long term dependence on benefits. However, it is well established that many conditions manifest years after an incident and that ADF members are less likely to claim whilst serving for cultural reasons. This could mean that many ADF members may be prevented from lodging a claim and would miss out on entitlements.

5.62 Statutory timeframes on determinations would remove one of the significant difficulties experienced by the claimant during the process, uncertainty over timeframes. Claimants would have clarity concerning the process and could plan accordingly. These models of statutory timeframes may also result in expedited determinations and encourage innovative business processes to ensure claims are completed within the timeframes.

5.63 Statutory timeframes on determinations would almost certainly result in claims being determined without consideration of the full merits of the case. This is in contrast to the legislative intent that determinations should be based on evidence and may result in inconsistent outcomes where some decisions are based on evidence and others on timeframes.

5.64 A deemed acceptance model would ensure some claimants receive faster access to benefits but it carries the risk that some accepted claims would have been rejected under full determination. This has financial and reputational impacts for Government. Some claimants may also face payment recovery where a deemed accepted claim is subsequently overturned on review. A deemed rejection model encourages claimants, advocates and lawyers to lodge quality, completed claims which assists in timely determinations. However, many claims may be rejected that would otherwise be accepted if time permitted a full determination to occur. The claimants would have to appeal the decision to access their entitlements, causing further delays.

5.65 Most of the advantages and disadvantages of the timeframe models on determination also apply to the model on internal reconsideration. Claimants would have greater certainty, be encouraged to provide information earlier and internal reconsideration processes may improve. On the other hand, a decision may not be based on evidence in contrast to the purpose of the reconsideration process and claimants may face further delays in entitlements.

6. CONCLUSION

6.1 This report has considered the potential application of statutory timeframes to the MRCA initial liability claims process.

6.2 DVA's longstanding purpose is to support those who have served in defence of our country. This means that claimants are the primary focus of the MRCC during the claims process and when considering the possible introduction of statutory timeframes.

6.3 While there would be greater certainty around the claims process, the MRCC considers that statutory timeframes would not produce better outcomes for claimants. Under current processes, there is a significant risk that any of the four proposed models of statutory timeframes would result in poor, incomplete and incorrect outcomes for claimants, particularly:

- claimants may miss out on the opportunity to lodge a claim or face further delays in accessing entitlements;
- determinations may not be based on the merits of the claim; and
- claims that would otherwise have been rejected are accepted or accepted where they should be rejected.

6.4 The MRCC acknowledges that DVA needs to reduce its claims processing times but considers that work already underway and planned will have a greater impact on reducing TTTP and improving client outcomes than the imposition of statutory timeframes. Current work has identified areas where business processes can be improved and the causes of delays in the claims process addressed. As at writing, recommendations on the implementation of these improvements are being considered. Further description of these, and other initiatives, is at Appendix 2.

6.5 The MRCC will monitor these initiatives to assess their impact on processing times. If successful, they will result in claimants receiving access to their entitlements earlier without the need for statutory timeframes which increase the risk of poor, incomplete or incorrect outcomes for claimants.

7. RECOMMENDATION

7.1 The MRCC recommends:

- that statutory timeframes not be applied to MRCA initial liability claims; and
- that DVA continues to implement the reform initiatives currently underway to improve timeliness of claims processing.

8. APPENDICES

Appendix 1 – Consultation

8.1 Input was received from the following external stakeholders in the development of this report during the period November 2013 through February 2014:

- ESO Round Table;
- Veterans' Review Board;
- WorkCover NSW;
- WorkSafe Victoria;
- WorkCover WA;
- WorkCover SA;
- NT WorkSafe;
- WorkSafe ACT;
- Comcare;
- Department of the Prime Minister and Cabinet;
- Veterans' Affairs New Zealand;
- Slater & Gordon Lawyers; and
- Maurice Blackburn Lawyers.

8.2 The following internal stakeholders were also consulted:

- Determination, Support and Reviews Branch;
- Principal Legal Advisor;
- Deputy Commissioner QLD;
- Deputy Commissioner NSW/ACT;
- Deputy Commissioner VIC;
- Deputy Commissioner WA;
- Deputy Commissioner SA;
- Deputy Commissioner TAS;
- Deputy Commissioner NT; and
- MRCA Review and Case Escalation Branch.

Appendix 2 – Reform initiatives

8.3 The Department is committed to improving the timeliness of claims processing. In line with this commitment, DVA is implementing a range of initiatives to improve client engagement and business processes.

Reducing Work on Hand

8.4 The Department formed a temporary specialist team dedicated to reducing the number of claims awaiting completion. As a result of the work of this team, there has been a drop in the number of claims on hand and the number is expected to continually decrease.

8.5 To assist in maintaining a low number of claims on hand, the Department is using newly developed workload management and forecasting tools that will allow for better monitoring, reporting and distribution of workload on a national basis.

8.6 As TTTP is not recorded until the claim is finalised, reducing the work on hand may initially result in an increase in DVA's mean TTTP as many older claims are finalised. However, finalising claims on hand will reduce the volume of claims assigned to individual delegates and, in conjunction with improved business practices and workload management, will assist with improving processing times in the longer term.

Improved Client Communication and Engagement

8.7 DVA is encouraging delegates to engage in more regular contact with claimants. Claims delegates are required to telephone claimants shortly after receipt of the claim to discuss the process with them.

8.8 With more proactive communication, the Department is encouraging claimants and representatives to provide as much of the required information as possible up front when lodging a claim. One of the ways in which DVA is encouraging the lodgement of completed claims is through the On Base Advisory Service (OBAS). OBAS was established in 2011 and is a national service provided by specially trained DVA staff who regularly and routinely visit over 35 bases around Australia. On Base Advisors provide information about the claims process and encourage claimants to lodge early with all required information.

8.9 The Department has recently developed and released a claims kit consisting of a checklist of required documents, an information sheet and a specific injury questionnaire to help claimants and representatives better prepare their claims and provide as much information as possible up front. These claims kits are available to potential claimants online, through OBAS and via ESOs.

8.10 Further to this, DVA is developing an education campaign to better inform ADF members of the eligibility requirements of, and benefits available under, the MRCA, SRCA and VEA. Improving understanding of eligibility requirements, benefits and the claims process will provide clearer guidance on the evidence required to determine a claim and encourage lodgement of completed claims to help accelerate the claims process.

8.11 Encouraging lodgement of completed claims will help remove some of the causes of delay during claims processing, particularly those involved with waiting for information from third parties, such as medical reports or service records, and should significantly reduce processing times.

8.12 MyAccount is the Department's online portal which allows clients to access a range of DVA services online such as viewing payments, updating personal information and booking and requesting reimbursement for transport. The Department is promoting the use of MyAccount in all Rehabilitation and Compensation letters so claimants can track the status of their claim online. MyAccount also has a step-by-step process guide to help claimants lodge claims online and an entitlements self assessment tool to help existing and prospective DVA clients assess their potential entitlements.

8.13 Improving client communication will help the Department influence and manage client expectations and behaviours before and during the claims process. In addition, it will assist in resolving delays by requesting information from the claimant to assist with processing the claim.

New Administrative Protocols

8.14 The Department is also keeping MRCA claimants informed of the progress of their claims by contacting them at the acknowledgement, 60 day and 110 day stages of the claims process. The Department is bound to these steps by new administrative protocols requested by the previous Government and which came into effect from 14 October 2013. These protocols also help ensure more streamlined, efficient and timely claims processing.

Acknowledgment letter

8.15 All MRCA acknowledgement letters for initial liability claims now include:

- a new information sheet titled 'Your claims – what happens after I put in a compensation claim?' to inform claimants of the claims process;
- an explanation of further information that may be required to process the claim;
- a commitment to keeping the claimant or their representative informed; and
- advice that DVA will endeavour to finalise the claim within 120 days.

60 day progress report

8.16 If the claim has not been finalised within 60 days, a letter will be sent to the claimant or their representative detailing outstanding matters and actions needed to complete the claim within 120 days. The letter will also include an explanation for the delay.

110 day progress report

8.17 Where it appears that a claim will not be finalised within 120 days, a further letter will be sent to the claimant or their representative at the 110 day stage detailing matters that remain outstanding, a revised target date for completion of the claim and information on how to contact the Commonwealth Ombudsman if the claimant is dissatisfied with the processing of the claim.

8.18 A report of all claimants receiving this letter, along with the revised completion date, must be brought to the attention of the relevant Deputy Commissioner (DC). The relevant DC will identify appropriate action to ensure determination by the revised completion date.

Escalation process

8.19 Incomplete claims nearing the revised completion date will be brought to the attention of the relevant DC at least ten days prior to the revised completion date. The case may be referred back to location staff for case conferencing or referral to the Case Escalation team in Canberra who will expedite all outstanding processes.

8.20 In line with these protocols, departmental systems have also incorporated automatic prompts to remind delegates to send out progress reports at the 60 day and 110 day stages. These protocols will assist delegates to be more aware of the stage of each claim and impending deadlines, assist in meeting the 120 day target in the majority of cases and keep clients better informed of the progress of their claim.

Improving Case Management Practices

8.21 DVA has also introduced a number of other strategies to improve areas that contribute to delays in processing claims, including:

- better use of contracted medical advisers to ensure faster turn around for advice on medical aspects of compensation claims;
- improving service delivery arrangements with third parties such as Defence and medical service providers;
- better training, guidance and support to claims delegates to move claims more rapidly through the process and minimise areas of delay; and
- encouraging case conferencing to utilise shared knowledge within a team. This enables delegates with a range of experience and skills to discuss a claim that is either complex or has become stuck somewhere in the investigative process.

Veterans First – Business Process Improvement Review

8.22 DVA is reviewing its business process for handling claims. The work involves developing:

- current business process maps allowing DVA to document and analyse the current business processes;
- future business process maps, which will identify streamlined practices and business processes; and
- an implementation strategy that will identify a pathway to introduce business improvements.

8.23 Initial findings of the review have been delivered and consideration of the current recommendations is ongoing. The recommendations focus on continuous improvements to business processes to eliminate areas of delays in the claims process.

Improved Training for Advocates

8.24 DVA is investigating options for improving training to advocates. The focus is on providing greater consistency in training across locations and ensuring training content is accurate, relevant and current.

8.25 Improved training for advocates is intended to improve the quality of advocacy and provide greater consistency across the board. This is likely to result in the lodgement of higher quality and more complete claims, consequently reducing processing times as less investigation and evidence-gathering will be required. Progress on this measure is ongoing.