



Veterans' Review Board

Practice Note 2 of 2018 Conduct of Representatives

The parties to the review

Every application before the Board has two parties to the review. They are called “the applicant” and “the respondent”.

The applicant is the person who has sought review of a decision.

The respondent is the party who made the decision, either the Repatriation Commission or the Military Rehabilitation and Compensation Commission.

All parties to a review before the Board have a right to appoint a person to represent them.

Who can be a representative?

Many Ex-Service Organisations, and some private individuals, provide representation for applicants before the Board.

Legally qualified persons can also provide representation for applicants at the Board in the following ways:

- Help prepare an appeal;
- Participate in all aspects of the Alternative Dispute Resolution (ADR) program; and
- Provide written submissions for a hearing.

However, lawyers are prevented from appearing for a party at a hearing¹.

The Repatriation Commission, the Military Rehabilitation and Compensation Commission, or Service Chief may be represented, but they rarely choose to do so at Board hearings. However, in some cases representatives for the respondent are required to attend ADR events or directions hearings.

Conduct of representatives

Representatives are an integral part of the veterans' review framework and play an important role in assisting and supporting serving members, veterans and their families.

Where a lawyer acts as a representative for a veteran, he or she is bound by the Conduct Rules and any statement of ethics made by the relevant state-based law society. Non-lawyers may be bound by other codes, such as the Advocacy Training and Development Program (ADTP) Code of Ethics.

The legislationⁱⁱ requires all representatives before the Board to use their best endeavours to assist the Board to fulfil its objective of providing a mechanism of review that is accessible, fair, just, economical, informal and quick.

To do this, representatives should present the case to the best of their ability and promote the timely resolution of the case consistent with the best interests of the applicant. This includes:

- only taking on an amount of work that can be done efficiently in order to comply with timetables set by the Board;
- obtaining clear written, signed, authorisation from the person who is being represented;
- having the case ready to be progressed as soon as practicable including, wherever possible, providing written submissions in advance of an ADR event or hearing;
- being available for ADR events and hearings scheduled by the Board or ensuring files are accessible to another representative in the case of any absence (for example, this may require liaising with another organisation to make any necessary arrangements);
- presenting the identified issues and relevant evidence clearly and succinctly at ADR events and hearings; and
- complying with the time limits and directions made by the Board, including fulfilling any undertakings that have been made to a Conference Registrar or Board Member.

In addition, representatives before the Board have a duty too:

- not mislead the Board;
- maintain objectivity and exercise independent judgment in the conduct and presentation of the case to the Board;
- be aware of the relevant legislation, Statements of Principles and case law which are relevant, regardless of whether they support or detract from the case; and
- act courteously and behave in a proper manner before the Board including treating other parties, including Commission representatives, and all members and staff of the Board with courtesy and respect.



Jane Anderson
Principal Member
29 October 2018

ⁱ Section 147(3) of the *Veterans' Entitlements Act 1986* (Cth)

ⁱⁱ Section 148(9) of the *Veterans' Entitlements Act 1986* (Cth)