

Veterans' Support (Code of Veterans' and Other Claimants' Rights) Notice 2015

Pursuant to section 34(1) of the Veterans' Support Act 2014, the Minister of Veterans' Affairs gives the following notice.

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Notice

- 1 Title**
This notice is the Veterans' Support (Code of Veterans' and Other Claimants' Rights) Notice 2015.
- 2 Code of Veterans' and Other Claimants' Rights approved**
The Code of Veterans' and Other Claimants' Rights set out in the Schedule is approved.

Schedule

Code of Veterans' and Other Claimants' Rights

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Part 1

Introduction

- 1 Background**
This Code of Veterans' and Other Claimants' Rights (this **Code**) has been established under Part 2 of the Veterans' Support Act 2014 (the **Act**).

2 Commencement

This Code comes into force on the day after the date on which the Code is approved by the Minister of Veterans' Affairs.

3 Application of Code

This Code is for any person who applies for or who is receiving any kind of entitlement under the Act (referred to in this Code as a **claimant**). This Code applies whether the claimant is a veteran, the spouse or partner of a veteran, or the child or dependant of a veteran.

This Code confers rights on veterans and other claimants and imposes obligations on Veterans' Affairs New Zealand (**VANZ**) in relation to how VANZ should deal with claimants.

Any disputes about entitlement under the Act are not covered by this Code, but continue to be addressed by the mechanisms under the Act.

As provided in section 32(2) of the Act, the rights and obligations in this Code—

- (a) are in addition to any other rights that claimants have under the Act, or any other enactment, or the general law:
- (b) are in addition to any other obligations that VANZ has under the Act, or any other enactment, or the general law:
- (c) do not affect the entitlements and responsibilities of claimants under the Act, or any other enactment, or the general law.

This means that claimants' obligations, responsibilities, and entitlements, as set out in the Act, do not change. In addition, claimants retain their rights and responsibilities under any other enactment or the general law, including under any enactment or the general law that governs the Health and Disability Commissioner, the Human Rights Commission, the Office of the Ombudsmen, or the Office of the Privacy Commissioner.

It also means that VANZ's obligations under this Code are in addition to, and not in place of, VANZ's obligation to perform functions and exercise powers in accordance with the principles set out in section 10 of the Act.

Persons acting as agents of VANZ, or on behalf of VANZ, must also comply with this Code in their dealings with claimants.

The provision of treatment services is not covered by this Code, but continues to be covered by the Code of Health and Disability Services Consumers' Rights. In addition, any treatment and disability services purchased by VANZ are covered by the Health and Disability Services Standards and the Health and Disability Services (Safety) Act 2001.

This Code does not cover ACC's dealings with claimants, for example, where ACC is responsible for managing claims and providing entitlements in accord-

ance with section 87 of the Act. Dealings that ACC has with claimants are covered by the Code of ACC Claimants' Rights.

A complaint can be made under this Code about dealings that VANZ has with claimants only if the dealings occur on or after the date on which this Code comes into force.

4 Purpose of Code

The purpose of this Code is to meet the reasonable expectations of veterans and other claimants about how VANZ should deal with claimants.

This Code is not about whether a claimant has entitlements under the Act, or the type and level of entitlements that VANZ is obligated to provide, as these continue to be prescribed by the Act.

5 Spirit of Code

This Code encourages positive relationships between VANZ and veterans and other claimants. For VANZ to assist claimants, a partnership based on mutual trust, respect, understanding, and participation is critical. Claimants and VANZ need to work together, especially in the rehabilitation process. This Code is about how VANZ will work with claimants to make sure they receive the highest practicable standard of service and fairness.

6 Definitions

In this Code,—

Act means the Veterans' Support Act 2014

claimant means any person who applies for or who is receiving any kind of entitlement under the Act, whether the person is a veteran, the spouse or partner of a veteran, or the child or dependant of a veteran, and **you** and **your** have a corresponding meaning

review officer means a person who is appointed to conduct reviews in accordance with Part 6

VANZ has the meaning set out in section 7 of the Act, and **we** and **us** have a corresponding meaning

veteran has the meaning set out in section 7 of the Act.

Part 2

Claimants' rights and VANZ's obligations

The 8 rights of veterans and other claimants, with VANZ's corresponding obligations, are listed below.

Right 1

You have the right to be treated with dignity and respect.

- (a) We will treat you with dignity and respect.
- (b) We will treat you with honesty and courtesy.
- (c) We will recognise that you may be under physical, emotional, social, or financial strain.

Right 2

You have the right to be treated fairly, and to have your views considered.

- (a) We will treat you fairly.
- (b) We will listen to you and consider your views.
- (c) We will take into account, and be responsive to, any impairment you may have.
- (d) We will treat veterans equally regardless of rank, Service, or operational experience.

Right 3

You have the right to have your culture, values, and beliefs respected.

- (a) We will be respectful of, and responsive to, all cultures, values, and beliefs.

Right 4

You have the right to a support person or persons.

- (a) We will welcome you and your support person or persons provided that the safety of all involved can be assured.

Right 5

You have the right to effective communication.

- (a) We will communicate with you openly, honestly, and effectively.
- (b) We will respond to your questions and requests in a timely manner.
- (c) We will support you with interpretation services if you are unable to communicate in English.
- (d) We will provide information in a form that you can access and in a timely manner.

Right 6

You have the right to be fully informed.

- (a) We will provide information on how to make a claim under the Act.
- (b) We will keep you fully informed.
- (c) We will provide you with full and correct information about your claim, entitlements, obligations, and responsibilities.
- (d) We will inform you if your entitlement changes.

- (e) We will give you information about how we provide services and how to access them.
- (f) We will discuss expected time frames with you.
- (g) We will inform you of your review and appeal rights under the Act.

Right 7

You have the right to have your privacy respected.

- (a) We will respect your privacy.
- (b) We will comply with all relevant legislation relating to privacy.
- (c) We will give you access to your information, in accordance with legislation.

Right 8

You have the right to complain.

- (a) We will work with you to address problems and concerns.
- (b) We will inform you about options available for resolving problems and concerns.
- (c) We will inform you about the complaints process, and the normal time frames for dealing with complaints.

Part 3

Addressing problems and concerns, and lodging and dealing with complaints

This Code sets out a framework for addressing and resolving problems and concerns relating to the rights and obligations set out in Part 2 of this Code, and a process to be followed for complaints, in the event that any problem or concern cannot be resolved by VANZ.

1 Overview

A veteran or other claimant can—

- (a) raise a problem or concern with the person whom the claimant is dealing with at VANZ, or that person's manager, which will be addressed and resolved without a decision being made:
- (b) if the claimant is not satisfied that VANZ has addressed and resolved the problem or concern, lodge a complaint with the complaints service and in that case a decision will be issued.

2 Procedure for addressing and resolving problems and concerns

A veteran or other claimant can raise a problem or concern relating to the rights and obligations set out in Part 2 with the person whom the claimant is dealing

with at VANZ, or that person's manager. A problem or concern can be raised in writing or orally.

VANZ will work with the claimant to address and resolve problems and concerns and to find a way forward. At this point in the process, VANZ will advise the claimant of—

- (a) what steps have been taken in relation to the claimant's problem or concern; and
- (b) the procedure for lodging a complaint if the claimant is not satisfied with the resolution.

If the claimant is not satisfied that VANZ has addressed and resolved the problem or concern, the claimant can decide whether to lodge a complaint.

3 Procedure for making complaints

A complaint relating to the rights and obligations set out in Part 2 should be lodged with the complaints service.

The complaints service is part of VANZ and will deal with, and make decisions on, complaints under this Code. The complaints service will act in a fair and impartial manner, taking the evidence, and the claimant's and VANZ's views, into consideration.

A complaint can be lodged with the complaints service if—

- (a) the claimant has raised a problem or concern with the person whom the claimant is dealing with at VANZ, or that person's manager; and
- (b) the claimant is not satisfied that VANZ has addressed and resolved the problem or concern.

A complaint may be made in writing or orally. As soon as practicable after making an oral complaint, a claimant must set out the complaint in writing.

The complaints service may decline to investigate a complaint if—

- (a) the complaint is correctly dealt with by another agency, such as the Health and Disability Commissioner. In that circumstance, the complaints service will advise the claimant of appropriate agencies that may be able to assist;
- (b) the complaint relates to a decision by VANZ relating to the claimant's entitlement under the Act and is not covered by this Code. In that circumstance, the complaints service will advise the claimant of the mechanisms in the Act that relate to the matters raised in the complaint;
- (c) the complaint covers the same issue as a complaint previously lodged on which a decision has already been made, the complaint is not made in good faith, or the claimant has not provided sufficient information for the complaint to be understood by the complaints service. In those circumstances, the complaints service will advise the claimant that the complaint is not accepted.

If the complaints service declines to investigate a complaint, the complaints service will inform the claimant of—

- (a) the complaints service's decision to decline to investigate (and the reasons for that decision); and
- (b) the claimant's right to a review of the decision to decline to investigate.

4 Procedure for dealing with complaints

The complaints service will—

- (a) acknowledge receipt of the complaint in writing; and
- (b) advise the claimant about the complaints process and normal time frames for dealing with the complaint; and
- (c) observe the rules of natural justice; and
- (d) comply with all of the relevant obligations in this Code when dealing with complaints; and
- (e) investigate the complaint; and
- (f) advise the claimant of any issues, such as entitlements, that are not matters for this Code and advise whom the claimant should contact to seek resolution of those issues.

If, in the course of investigating a complaint against VANZ, issues of the performance of any person within VANZ arise, these will be dealt with under the normal human resources policy and processes within the Defence Force, having due regard to employment law. Those issues will not be dealt with under the auspices of remedies available under this Code.

5 Decisions

The complaints service will issue a decision on the complaint. The decision will be in writing and will advise—

- (a) whether VANZ has breached this Code; and
- (b) the reasons for that decision; and
- (c) if a breach has occurred, what, if any, of the remedies or actions identified in Part 4 are appropriate.

In addition, the decision will specify that the claimant has the right to a review of that decision, as provided for in Part 6.

Part 4

Remedies available under Code

On finding that there has been a breach of this Code, the complaints service may, where appropriate, direct VANZ to—

- (a) provide a written or an oral apology:

- (b) forward a written explanation of the situation:
- (c) meet with the claimant to consider the claimant's views and achieve resolution, accompanied by the claimant's support person or persons where requested:
- (d) forward information to the claimant, in an appropriate form, that explains—
 - (i) the claim and related entitlements:
 - (ii) review and appeal rights:
 - (iii) any relevant legislation and services, and the expected time frames:
- (e) provide the claimant with access to the claimant's file:
- (f) facilitate communication by ensuring a response is given to questions and requests:
- (g) provide interpretation services.

In addition, the complaints service may, where appropriate, recommend other remedial actions.

Part 5 Addressing situations

In addition to the remedies in Part 4, VANZ will address the wider implications of breaches that arise by—

- (a) analysing and monitoring issues arising from the complaints process; and
- (b) identifying concerns with operational policies and processes; and
- (c) subsequently undertaking and remedying concerns associated with operational policies and processes as appropriate; and
- (d) informing the claimant that the situation has been addressed.

Part 6 Claimant's right of review

If a veteran or other claimant disagrees with any decision made by the complaints service under this Code, the claimant can apply for a review of that decision.

The review of a decision under this Code is covered by this Part. Subpart 2 of Part 7 of the Act does not apply to decisions under this Code.

The complaints service will provide information about the review process to the claimant.

1 Applying for review of decisions under this Code

A claimant can apply for a review of a decision of the complaints service under this Code.

An application for review should be made in writing and in the form provided by VANZ for the purpose. The application should clearly identify—

- (a) the decision that the claimant disagrees with; and
- (b) the reasons why the claimant disagrees with the decision.

The application for review must be received by the complaints service not later than 3 months after the date on which the claimant receives notification of the decision. However, an application may be made later if the review officer is satisfied that the delay was caused by circumstances beyond the claimant's control.

2 Review officer

Reviews under this Part will be conducted by a review officer.

A review officer is a person who is independent of VANZ and who is appointed by the Chief of Defence Force to conduct reviews.

3 Procedure for dealing with applications for review under this Code

When the complaints service receives an application for review, it will—

- (a) acknowledge receipt of the application for review; and
- (b) forward the application to a review officer as soon as practicable; and
- (c) advise the claimant about the review process and normal time frames for dealing with the application for review.

The review officer must conduct a review of the complaint, the complaints service's decision, and the reasons the claimant disagrees with the decision. The review officer must—

- (a) act independently; and
- (b) observe the rules of natural justice; and
- (c) comply with all of the relevant obligations in this Code.

In other respects, the review officer may conduct the review as he or she sees fit. For example, the review officer may—

- (a) request further information from the claimant or from VANZ; and
- (b) meet with the claimant and VANZ, separately or together.

4 Review decisions

The review officer will issue a decision on the application for review within 30 days after the date on which the application for review is received by the complaints service.

The decision will be in writing and will advise—

- (a) whether VANZ has breached this Code; and
- (b) the reasons for that decision; and
- (c) if a breach has occurred, what, if any, of the remedies or actions identified in Part 4 are appropriate.

Part 7
No right of appeal

There is no right of appeal from the review officer's decision under this Code.

Part 8
Status of Code

Section 36 of the Act provides that this Code is a disallowable instrument for the purposes of the Legislation Act 2012.

Dated at Wellington this day of 2015.

Minister of Veterans' Affairs.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which is given by the Minister of Veterans' Affairs, approves the Code of Veterans' and Other Claimants' Rights. The Code comes into force on the day after the date on which the Code is approved.