

# **Code of Veterans' and Other Claimants' Rights**

**Version 3.0**

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# Policy

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## 1. Purpose

- 1.1 The purpose of this document is to provide guidance on the administration under the Veterans' Support Act 2014 (the Act) of the Code of Veterans' and Other Claimants' Rights (the Code). A Guide to the Code is available on the Veterans' Affairs website or through the veteran's Case Manager.

## 2. Legislative Reference

- 2.1 The legislative reference is the Act, sections 7 and 32 to 37.

## 3. Status of the Code

- 3.1 The Code is a disallowable instrument for the purposes of the Legislation Act 2012.
- 3.2 A disallowable instrument means an instrument made under the Act that has a significant legislative effect, because it can create, alter or remove rights or obligations and determine or alter the course of the law applying to the public or a class of the public.
- 3.3 A disallowable instrument is not made or approved by a Court, Judge, or person acting judicially, nor by resolution of the House of Representatives, and the House of Representatives can not prevent it from coming into force.

*Sections 38 and 39 of the Legislation Act 2012*

## 4. Purpose of the Code

- 4.1 The purpose of the Code is to meet the reasonable expectations of **veterans** and **other claimants** about how Veterans' Affairs should conduct its interactions with them. Veterans' Affairs is expected to provide veterans and other claimants with the highest practicable standard of service and fairness.
- 4.2 The Code encourages positive relationships between Veterans' Affairs and veterans and other claimants based on principles of mutual trust, respect, understanding, participation, communication, service and fairness. These principles are set out in the Code as the claimant's rights and Veterans' Affairs' obligations.
- 4.3 The Code also provides for:
- the procedure for lodging and dealing with complaints about breaches of the Code
  - the consequences and remedies for a breach of the Code by Veterans' Affairs and how and to what extent Veterans' Affairs must address

situations where its conduct is not consistent with or does not uphold the rights of veterans or claimants under the Code

- a veteran's and other claimant's right to a review of a decision made under the Code about their complaint.

#### 4.4 The rights and obligations of the Code:

- are in addition to the rights and obligations veterans and other claimants have, and the obligations Veterans' Affairs has, under the Act, or any other Act, or the general law, and
- do not affect the entitlements and responsibilities of veterans and claimants under the Act, or any other Act, or the general law.

*Sections 7 and 32 of the Veterans' Support Act 2014*

## 5. What the Code is not used for

5.1 Complaints cannot be made under the Code about any dispute relating to eligibility for entitlements and services provided for under the Act, as such disputes are covered by the relevant review and appeals processes outlined in separate policies on Review and Appeals.

5.2 Complaints about matters of policy and administration of entitlements and services (such as whether pre-approval is needed for specialist treatment) also cannot be made under the Code, but will be dealt with under the general formal complaints process outlined in the separate Complaints policy.

5.3 If the complaint is correctly dealt with by another agency (e.g. the Health and Disability Commissioner), the veteran or other claimant will be advised of the appropriate agencies that may be able to assist.

5.4 The Code also does not apply to any dealings Veterans' Affairs had with a veteran or other claimant before the Code came into force on 16 December 2015.

## 6. Eligibility for making complaints under the Code

6.1 The Code applies to all those claiming entitlements and services from Veterans' Affairs, including veterans, their spouses and partners, their children and dependants.

## 7. Procedure for resolving problems or concerns

7.1 A veteran or other claimant can raise a problem or concern relating to the rights and obligations set out in the Code with the person with whom they have been dealing with at Veterans' Affairs, or that person's manager. A problem or concern can be raised in writing or orally. Veterans' Affairs will work with the veteran or other claimant to address and resolve problems and concerns and

to find a way forward. Veterans' Affairs will also advise the veteran or other claimant of:

- what steps have been taken in relation to the problems and concerns, and
- the procedure for lodging a complaint if the veteran or other claimant is not satisfied with the resolution.

## **8. Procedure for lodging a complaint**

- 8.1 If the veteran or other claimant remains dissatisfied they may lodge their complaint with the Veterans' Affairs Complaints Service orally or in writing but an oral complaint must be followed up in writing.
- 8.2 The Complaints Service will act in a fair and impartial manner, taking the evidence, and the veteran's or other claimant's and Veterans' Affairs views into consideration.
- 8.3 The Complaints Service may decline to investigate a complaint if the complaint:
- Is correctly dealt with by another agency, such as the Health and Disability Commissioner (the complaints service will advise the veteran or other claimant of other agencies that may be able to assist)
  - relates to the veteran's or other claimant's entitlement, in which case the veteran or other claimant will be advised which other mechanism under the Act relates to the complaint raised
  - covers the same issue as a complaint previously lodged on which a decision has already been made, or is not made in good faith, or is not supported by sufficient information from the veteran or other claimant to be understood by the Complaints Service.
- 8.4 If the Complaints Service declines to investigate a complaint, the Complaints Service will inform the veteran or other claimant of its decision to decline to investigate, the reasons for that decision, and the veteran's or other claimant's right to a review of the decision to decline to investigate.

## **9. Procedure for dealing with complaints**

- 9.1 The Complaints Service will acknowledge the receipt of the complaint in writing, and advise the claimant or other claimant about the complaints process and normal timeframes for dealing with the complaint.
- 9.2 In investigating the complaint the Complaints Service will observe the rules of natural justice and comply with all the relevant obligations in the Code.
- 9.3 The Complaints Service will advise the veteran or other claimant of any issues, such as entitlements, that are not matters for the Code and whom the veteran or other claimant should contact to seek resolution of those issues.

- 9.4 Any issues that arise in the investigation about the performance of any Veterans' Affairs staff will be dealt with under the normal human resource policy and processes within the Defence Force and not under the remedies available under the Code.
- 9.5 The Complaints Service will communicate its decision about the complaint to the veteran or other claimant in writing and will include:
- advice as to whether Veterans' Affairs breached the Code
  - the reasons for the decision
  - what remedies or actions Veterans' Affairs will carry out if a breach occurred
  - the veteran's or other claimant's right of review.

## **10. Remedies available under the Code**

- 10.1 If the Complaints Service finds that there has been a breach of the Code it may, where appropriate, direct Veterans' Affairs to:
- provide a written or oral apology
  - forward a written explanation of the situation
  - meet with the veteran or other claimant to consider their views and achieve resolution (the veteran or other claimant may be accompanied by their support person or persons where requested)
  - forward information to the veteran or other claimant which explains the claim and related entitlements, review and appeal rights, any relevant legislation and services, and the expected timeframes
  - provide the veteran or other claimant with access to their file
  - facilitate communication by ensuring a response is given to questions and requests
  - provide interpretation services
  - recommend other remedial actions.

## **11. Drawing up lessons learned**

- 11.1 If a breach of the Code has occurred, Veterans' Affairs will draw up lessons learned for staff to follow by:
- analysing and monitoring issues arising out of the investigation of the complaint

- identifying and remedying concerns associated with operational policies and processes
- informing the veteran or other claimant that the situation has been addressed.

## 12. Reviews

- 12.1 If a veteran or other claimant disagrees with the Complaints Service's decision he/she can apply to the Complaints Service for a review of the decision. The Complaints Service will provide the veteran or other claimant with information about the review process.
- 12.2 The veteran's or other claimant's application for review must be made in writing on the appropriate form provided by Veterans' Affairs. The application must specify the decision the veteran or other claimant disagrees with and his/her reasons for disagreement.
- 12.3 The application for review must be received by the Complaints Service no later than three months after the date on which the veteran or other claimant received notification of the decision. However, an application may be made late if the Review Officer is satisfied that the delay was caused by circumstances beyond the veteran's or other claimant's control (e.g the veteran or other claimant was hospitalised).

## 13. Reviews Procedure

- 13.1 The review will be conducted by a Review Officer who is independent of Veterans' Affairs and who is appointed by the Chief of Defence Force.
- 13.2 The Complaints Service will acknowledge receipt of the veteran's or other claimant's review application and forward it to the NZDF Director of Human Resources Operations for on-passing to the Manager of Human Resources Advisory Services and to the independent Review Officer for review and decision. The Complaints Service will advise the veteran or other claimant of the review process and timeframes.
- 13.3 The Review Officer will review the complaint, the Complaint Service's decision and the reasons the veteran or other claimant disagrees with the decision. He/she will act independently, observe the rules of natural justice, and comply with the relevant obligations of the Code. He/she may otherwise conduct the review as he/she sees fit. He/she may, for example, request further information from the veteran or other claimant or Veterans' Affairs and meet with any of them, separately or together.

## 14. Review decisions

- 14.1 The Review Officer must issue his/her review decision within 30 days after the date on which the review application was received by the Complaints Service.
- 14.2 The decision will be made in writing and will advise:

- whether Veterans' Affairs has breached the Code
- the reasons for that decision
- if a breach has occurred, what, if any, of the remedies or actions identified in section 11 above are appropriate.

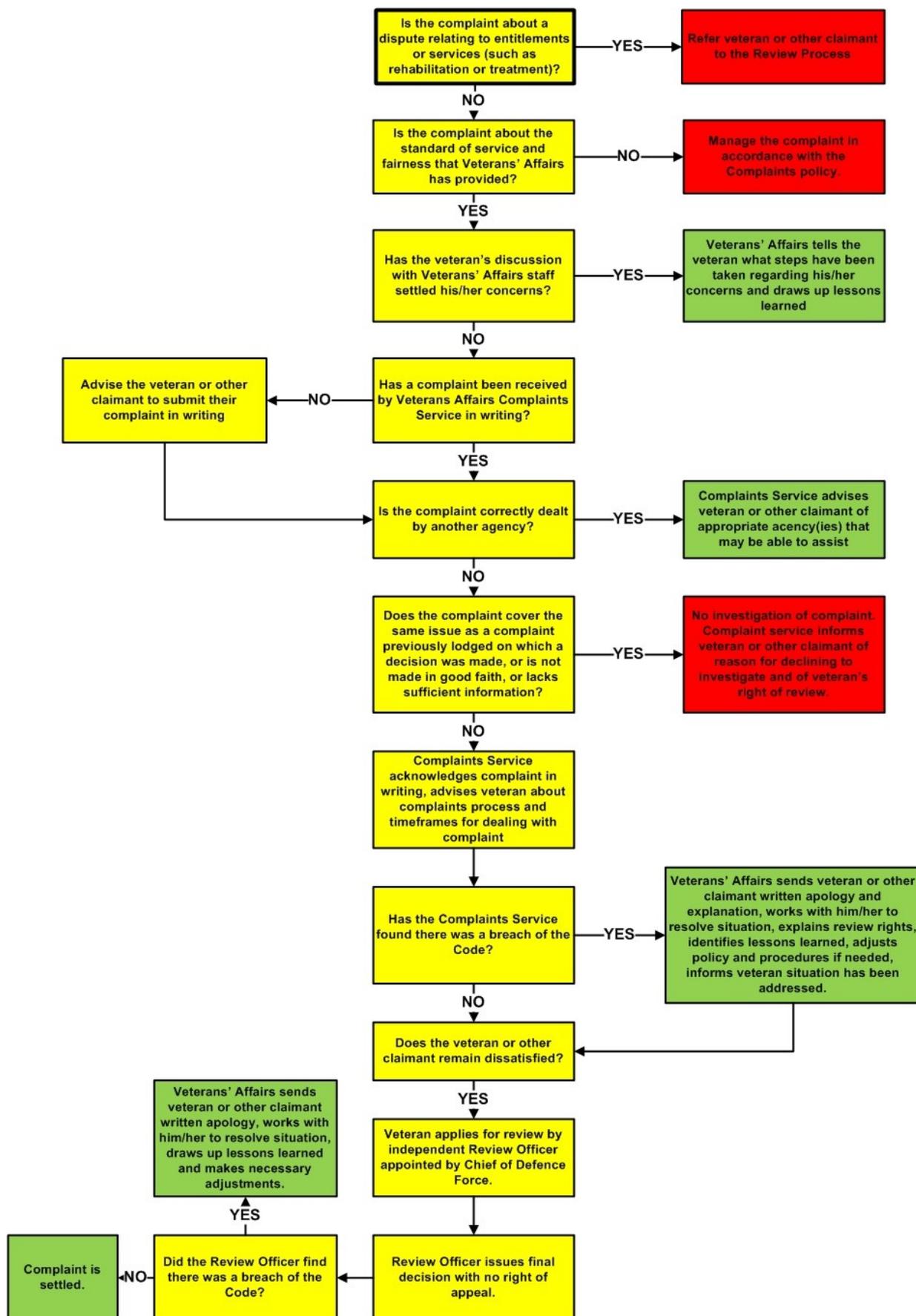
## **15. Appeals**

15.1 There is no right of appeal from the Review Officer's decision under the Code.

## **16. Living Overseas**

16.1 This policy on the Code, and the Code itself, apply equally to all New Zealand veterans, irrespective of their country of residence.

# Appendix I: Pathway for Complaints under the Code



## Glossary

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### **child** [section 7]

In relation to a veteran:

- (a) means a natural child of the veteran; and
- (b) includes an adopted child of the veteran; and
- (c) includes any other child who would ordinarily be regarded as a child of the veteran because the veteran:
  - (i) is or was the spouse or partner of one of the child's parents; and
  - (ii) acted as a parent of the child.

### **dependant** [section 7]

In relation to a veteran, means any of the following persons:

- (a) a person (not being the spouse, partner, or child of the veteran) who –
  - (i) is under 18 years of age; and
  - (ii) is wholly or primarily dependent on the veteran for financial support; and
  - (iii) ordinarily resides with the veteran;
- (b) a person (not being the spouse, partner or child of the veteran) who –
  - (i) is 18 years of age or more; and
  - (ii) is under the care of the veteran; and
  - (iii) ordinarily resides with the veteran because the person is unable to live independently of the veteran due to disability, illness or advanced age;
- (c) a person who –
  - (i) is the child of the veteran; and
  - (ii) is 18 years of age or more; and
  - (iii) is under the care of the veteran; and
  - (iv) is unable to live independently of the veteran due to physical or mental infirmity.

### **partner** [section 7]

Means a civil union partner or a de facto partner.

### **other claimants** [section 7]

Means:

- (a) persons who have served as members of the armed forces before 1 April 1974 and whose injury or illness was caused by, contributed to by, or aggravated by routine service in New Zealand or overseas; and
- (b) dependants of veterans; and
- (c) spouses or partners of veterans.

### **Review Officer** [section 7]

Means a member or a contractor of the Defence Force appointed by the general manager (or by the Chief of Defence Force if section 219(2)(b) applies) to conduct reviews under subpart 2 of Part 7 of the Veterans' Support Act 2014.

### **veteran** [section 7]

Means:

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (b) a person:

- (i) who has been:
  - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
  - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
- (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
  - (i) section 19 (but only if the person was a member of the forces):
  - (ii) section 55 or 56:
  - (iii) Parts 4 and 5