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Department shift opens door to hundreds of claims by veterans

DAN BOX THE AUSTRALIAN JANUARY 07, 2015 12:00AM

HUNDREDS of military veterans denied compensation for injury or illness could take legal action against the federal government, after it quietly stopped using a private research company to investigate veterans' cases.

The Australian revealed last year that the company, Writeway Research Service, was involved in a commonwealth investigation over the use of an allegedly forged document to challenge one service-woman's case.

Court documents show the Department of Veterans' Affairs subsequently conceded it had stopped using Writeway, which has received nearly \$1 million to produce hundreds of "research reports" on veterans since the late 1990s.

These reports are often disputed by the veterans themselves but can have a huge influence on the decision to grant them a pension or other compensation for wounds suffered on active service. The decision to stop using the company has raised questions over the department's reliance on its reports and could open the floodgates to a tide of legal claims.

One veteran, whom The Australian agreed not to name, recently appealed to the national Administrative Appeals Tribunal, challenging the DVA's decision to deny his claim for post-traumatic stress disorder. Citing the fact that the company was no longer used by the department, his case directly challenges the credibility of a Writeway report drawn up two years before that decision was made.

Last August, the tribunal overturned a DVA decision to deny another veteran, Grant Martin, an incapacity pension after the department's lawyer admitted it was no longer using Writeway. After being challenged about the company's report into Mr Martin's service on board HMAS Canberra in the Middle East during 1993, the DVA lawyer asked not to use it in the case.

"The investigation that was requested for the department of the Writeway services is still ongoing," DVA lawyer Bruce Williams told the tribunal. "Until such time as that's resolved, the instructions of advocacy ... is not to rely upon their services."

Mr Martin, a former navy radar plotter who subsequently served as a detective with the NSW Police Force, said the sudden climb-down came after the department had fought "tooth and nail", repeatedly rejecting his claim for more than two years.

He developed PTSD and depression after being warned the ship he was serving on was under Scud missile attack from Iraq, Mr Martin said, and approached the DVA at his doctor's suggestion after being repeatedly hospitalised. He now suffers "night terrors".

"I have to sleep in a separate bed from my wife because of violent fits and throwing punches all the

time,” he said. “You’re on a knife edge all the time. You can’t sleep, you can’t relax, you can’t concentrate, it feels like your head’s going to fall off.”

The initial Writeway report found there was “no evidence” to support Mr Martin’s claim the Canberra took evasive action after the missile threat was announced. In contrast, the tribunal’s final decision found “there was a missile alert ... (Mr Martin) perceived a very real threat from the announced missile attack”.

His subsequent illness was “war-caused”, the tribunal found, and he was “entitled to receive a pension in respect of incapacity associated with those conditions”.

In the last full financial year during which Writeway was employed, the DVA commissioned 99 “military research reports” into 78 veterans, most of them conducted by the company. In half of these cases, the subsequent compensation decision went against the veteran.

John Tilbrook, an army reserve officer who founded Writeway and also works in the Army History Unit, said the DVA was still not employing the company today. He had been instructed by a departmental director “not to discuss any relationship with DVA and Writeway with the media”.

“They’ve actually got an investigation going,” Mr Tilbrook said. “We’ve provided information and not had any feedback.

“The grain machine takes a long time to make any decisions, as you know.”

The ongoing investigation centres on allegations a 2012 Writeway report into an unrelated veteran’s claim relied on a forged letter claiming to have been approved by the head of the powerful Australian Signals Directorate.

Initial investigations by the Department of Defence found the letter, which challenged some of the veteran’s claims, had not been produced by the intelligence agency, nor with its sanction. The letter’s author, a former army lieutenant colonel, personally provided it to the Writeway researcher, himself a former colonel, who the company said had taken the document “on face value”.

Rod Thompson, a veterans’ advocate leading the new legal challenge to the DVA’s use of a Writeway report, said: “There’s literally hundreds if not thousands of Writeway reports that have impacted on the way decisions are made. I think if it’s found Writeway have been fraudulent ... there has to be some sort of compensation. You can’t use these reports and if they are found to be flawed, you can’t just get away with saying sorry.”

The DVA declined to answer questions, instead releasing a written statement saying: “The recent issues ... are currently under investigation. Due to privacy reasons, it will not be possible to release the findings.”

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