



**HOUSE OF COMMONS
CANADA**

A TIMELY TUNE-UP FOR THE LIVING NEW VETERANS CHARTER

Report of the Standing Committee on Veterans Affairs

**David Sweet, MP
Chair**

JUNE 2010

40th PARLIAMENT, 3rd SESSION

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has the honour to present its

FIRST REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has reviewed the New Veterans Charter and has agreed to report the following:

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FOREWORD

In presenting this report, all members of the House of Commons Standing Committee on Veterans Affairs wish to offer their sincere thanks and admiration to the many thousands of men and women of the Canadian Forces and those veterans who have served their country and secured our freedom. We are particularly grateful to their families who have provided critical support in difficult times.

In the course of such service, many have been killed, sustained grievous injury or succumbed to less obvious, but equally insidious disabilities, both physical and psychological. They have paid, and continue to pay, much more than the country can ever offer in return. Their sacrifice is our inspiration in the pursuit of our study of the implementation of the New Veterans Charter. We know there is work to be done in this regard and we hope our contribution here indicates our commitment to do more for our veterans.

INTRODUCTION

On October 20, 2009, the House of Commons Standing Committee on Veterans Affairs began a review of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*, better known as the “New Veterans Charter” (NVC). The Committee held six meetings on the subject during the 2nd Session of the 40th Parliament and 13 more during the 3rd Session.¹

The NVC was adopted unanimously in the House of Commons, and received Royal Assent on May 13, 2005. Its provisions came into force on April 1, 2006. It constitutes a major reform and redefines the compensation system for veterans in the event of injury, disability or death, in addition to providing a full range of services to assist veterans and their families. It replaces the former system, which was governed by the *Pension Act*. Its primary objective is to promote social and occupational reintegration for veterans. The nature of the services provided and details on eligibility conditions are set out in the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*.

The NVC does not define the eligibility of veterans for health care programs (short- or long-term accommodation, Veterans Independence Program, special devices, etc.). The criteria are set out in the *Veterans Health Care Regulations*, which are independent from the NVC. However, it does afford veterans the opportunity to contribute to the Public Service Health Care Plan in order to enhance coverage offered by provincial plans.

Prior to 2006, the *Pension Act* granted military members suffering from a service-related injury or disease a monthly pension for life, the amount of which varied based on the severity of the impairment. The pension had the same value for all members, regardless of rank, and various premiums could be added based on family situation or exceptional circumstances. It was adjusted upward if a veteran’s condition deteriorated and downward if it improved.

Receipt of a pension also granted access to a range of medical services governed by the *Veterans Health Care Regulations*. All health care deemed necessary for treatment of the injury or disease giving rise to a pension—the “pensioned condition”—including long-term care, was paid for by the federal government.

The testimony of one Veterans Affairs Canada representative clearly sums up the findings that led to an examination of the compensation system, the principles of which had changed little since 1919:

At that time, the only gateway to VAC services was by obtaining a pension. Most pensions were awarded for amounts insufficient to provide an adequate income, as they

¹ The Committee adopted a motion authorizing it to use the evidence heard during the 2nd Session for the purposes of its report.

were constructed to provide compensation for pain and suffering received in service to Canada and not as income replacement. Thus, we could offer a disability pension and associated treatment benefits, but we could not offer an income stream into the future. In addition, no rehabilitation was available. Real needs were not being met, as too many pensioned and non-pensioned CF veterans were not successfully transitioning from military to civilian life. We recognized that a new wellness model based on modern disability management principles was required.²

Under the *Pension Act* regime, it would have been possible to introduce measures to facilitate the transition to civilian life for military members released for medical reasons. A number of programs—generally modest in scope—were developed by the Department of National Defence and Veterans Affairs Canada over the years. However, all those programs ran into a problem that limited veterans’ motivation to take part in rehabilitation programs: the value of the pension declined if the veteran’s physical condition improved, which made many veterans focus more on their disability than on their rehabilitation. All evaluations conducted over the past 20 years have consistently come to the conclusion, both expressly and otherwise, that this is not the best way to promote a successful transition to civilian life. Furthermore, all attempts at physical rehabilitation were to be made at the initiative of the veteran, who also had to prove that the need was genuinely a consequence of the “pensioned condition”. That was a lot to ask of individuals who often would have preferred not to leave the Canadian Forces. As Ken Miller of Veterans Affairs Canada put it:

For those who couldn’t work, the disability pension did not provide a sufficient income stream to compensate for earnings lost. This caused some clients to focus more on their disability, since under the previous entitlement-based approach, the only way to get more support was to demonstrate increasing levels of disability. This resulted in poor transitioning and needs not being met. This was not our determination alone; this was what Canadian Forces members and veterans, as well as key stakeholders, were telling us.³

The New Veterans Charter is an attempt to respond to the new context of military life and to the deficiencies that the *Pension Act* could not correct. Its primary objective is to ensure that military members who are released for medical reasons, and who as a result of modern rehabilitation programs are able to hold suitable employment, can count on getting all the support they need to do so. However, it was not realistic to imagine that rehabilitation programs could meet with large-scale success if the principle of a monthly pension for life was maintained. That is why the NVC draws a very clear distinction between financial benefits designed to compensate for income loss and compensation paid for the pain and suffering associated with a service-related injury. The absence of such a distinction in the *Pension Act* had resulted in a number of ambiguities.

The financial benefits serving to compensate for income loss are paid only if a veteran takes an active part in a rehabilitation program, or if the impairment is too serious

2 Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0900.

3 Mr. Ken Miller (Director, Program Policy Directorate, Department of Veterans Affairs), 6 May 2010, 1110.

to permit an adequate occupational transition. The disability award is paid in the form of a lump sum for any service-related injury resulting in a lasting impairment. Thus, according to the philosophy of the NVC, once a veteran is once again able to hold gainful employment, VAC may cease paying financial benefits. However, veterans will receive their disability award regardless of their employment prospects.

If the impairment is too serious to enable a veteran to hold gainful employment, different financial benefits are available, including an earnings loss benefit that may be paid until the age of 65, and a lifetime monthly permanent impairment allowance that can also be paid in the most severe cases.

The spirit of the New Veterans Charter has received an almost unanimous positive reception. However, there is serious doubt about the ability of the measures implemented by the act to achieve these praiseworthy objectives. No one doubts that it is appropriate to help released military members, including those who are released for medical reasons, in finding satisfactory employment in civilian life when they are able to do so. However, favourable conditions must also be present. In light of the evidence heard, for such a successful transition to be possible, at least four conditions must be met: ongoing, personal physical rehabilitation support; rapid personal vocational rehabilitation support; short-term financial incentives for vocational transition; and guaranteed long-term financial security. In addition, each of these conditions must take into account the veteran's family, and, as necessary, separate support measures must be offered to family members. Of those four conditions, the *Pension Act* adequately met only the last. The main criticism made of the New Veterans Charter is that it meets only the first three, and inadequately so. Some witnesses alleged that since April 1, 2006, military members released for medical reasons have feared that they have traded financial security for an unlikely rehabilitation.

The purpose of this report is to assess the evidence that Committee members heard on the strengths and weaknesses of the programs put in place since the New Veterans Charter came into force. Any evaluation of this act will necessarily involve a comparison with the previous system. In this report, that comparison will be made based on the three major groups of programs implemented under the NVC: first, rehabilitation and job placement assistance, including enhanced medical coverage; second, the financial benefits providing compensation for income loss due to disability; and, lastly, the lump sum payment of a disability award and related measures to compensate for pain and suffering.

As it is difficult to establish an overview of the complex nature of the measures introduced under the NVC, we had to set aside many problems affecting VAC's administrative processes which were revealed during this review. The coming into force of the NVC may have affected those processes, but the vast majority of problems raised existed before the NVC. Approximately half of the some 300 recommendations made by the various VAC advisory groups relate to those processes (see Appendix A), and they are serious enough to warrant an extensive review of the administration of VAC's programs as a whole, including those of the Veterans Review and Appeal Board.

Committee members therefore focused on the three groups of programs introduced under the NVC and considered three major questions to which this report is an attempt to provide some answers:

- Do the rehabilitation services offered under the NVC make it easier for veterans to transition harmoniously to civilian life than previously?

The overall answer to this question from the witnesses we heard is a cautious “yes”. The new rehabilitation programs have infused in the NVC a positive spirit focused on enhanced support for the transition to civilian life. However, many outstanding questions remain with regard to the number of veterans who may actually benefit from the programs, the coordination of transition efforts with the Department of National Defence and program overlap. Our recommendations in that matter are meant to support the ongoing efforts, from both Veterans Affairs Canada and the Department of National Defence, that have been put into trying to resolve many of these issues.

- Do the financial benefits offered under the NVC guarantee veterans and their families more solid financial security than previously?

The overall answer to this question from the witnesses we heard is a cautious “no”. The NVC’s financial benefits mainly appear to provide adequate support for those who least need assistance, that is to say veterans with minor or moderate disabilities who have good prospects for achieving physical and vocational rehabilitation within less than two years. However, for others, that is to say veterans whose disabilities are more serious or more complex as a result of their psychological aspects, the NVC is a distinct step backwards in financial terms compared to what the *Pension Act* provided, particularly for young veterans.

- Does the lump-sum payment of a disability award enable veterans and their families to achieve greater acceptance of the pain and suffering associated with injury or death than previously?

Very few of the witnesses heard supported this measure in its present form, particularly as a result of the risks associated with the lump sum payment of a large amount of money. Terms and conditions of payment spread over a period of time could quite easily mitigate the problem, but that will probably not be an adequate solution, unless significant changes are considered to the programs providing financial benefits for income replacement purposes.

* * *

The overall verdict is therefore that the spirit of the NVC must be nourished and supported in every possible way, but that a number of measures put in place should be reassessed, particularly those concerning income replacement for the most seriously injured veterans.

This judgment is consistent with the series of reports submitted by the advisory groups that also provide a backdrop to the first phase of the evaluation report undertaken by Veterans Affairs Canada. Those reports were an invaluable source of information, without which it would have been impossible to come to an informed assessment, and most of the Committee's recommendations draw in one way or another on those contained in those reports. It should be emphasized that the department displayed a high degree of openness and freely and quickly provided the information the Committee needed to conduct its review. The Committee also offers warm thanks to all witnesses who agreed to share their experiences and knowledge to assist us in advancing the veterans' cause.

While it is important for wounded veterans to successfully transition to civilian life, it is often forgotten that it is equally important for civilians to be prepared to receive those who have suffered on their behalf with all the care and attention they deserve. That is why we wish to reiterate our tireless support for any measure that can improve the well-being of those individuals who chose to defend our values of freedom by risking their physical integrity and their lives. They may be assured that they will always have the attentive ear and infinite gratitude of all the members of this Committee.

90 YEARS UNDER THE *PENSION ACT* SYSTEM

The principles of the *Pension Act*, which were developed during World War I, were well suited to the consequences of the major global conflicts in which hundreds of thousands of citizens were required to participate over a relatively short period of time, in mass wars of extreme intensity mobilizing virtually all the energies of the entire country. The vast majority of veterans were ordinary citizens who had suspended their activities, ambitions and family lives to go and defend the values of freedom, knowing they would be risking their lives. Very few of them planned a “career” in the military. The *Pension Act* was therefore passed in 1919 to thank and compensate patriotic citizens whose futures had been dimmed by wartime injuries and the families of those who had sacrificed their lives.

The aim of the *Pension Act* was to alleviate the pain of the past. It was not designed as a contract defining in advance and for the future what the nation was prepared to do in the event a member of its armed forces was wounded or died in service. It was made for a temporary citizen army, for an “expeditionary force”, not for a permanent professional armed force. It thus had very little to offer in the way of support for the transition to civilian life.

Following the Korean War, Canada did not need to raise a temporary citizen army. If that had been the case, the *Pension Act* would have been adapted to that situation, and the conditions in which pensions were paid would have been adjusted to the specific nature of the conflict. Instead, Canada established a professional armed force, well trained and well equipped. Members chose to enrol for a period that did not depend on the start or end of any particular conflict. A military “career” is of course a career unlike any other, and the sacred aspect of risking death on behalf of collective values must be acknowledged. But it is still a career, i.e. a long-term commitment to a paid professional activity.

Since the mid-1950s, military members who enrol in the Canadian Forces have usually done so for the long term, and the government should provide them with support from the perspective of a “transition” to civilian life, not of a “return” to civilian life. These are career military members, whereas the soldiers of the great wars were civilians before the war and it was clear they would become civilians again after it.

Following the major global conflicts of the twentieth century, the incentive to transition to civilian life and to resettle was implicit. When disabilities were too serious to allow that, the government intervened to guarantee a stable income and appropriate care. Where disabilities were too severe, assurances were given that war injuries would be cared for, a pension would be paid every month as compensation for suffering, and it was assumed that the return to civilian life would occur on its own. Those who returned from the front without serious injuries obviously did not represent a problem.

In the past 50 years, those who have left the armed forces have done so because they want to retire, because they decide they no longer wish to pursue that career and

leave voluntarily, or because they are released for medical reasons. Those who leave voluntarily may have no evident permanent injuries or only minor wounds.⁴ They may need only minimum support to return to civilian life since the decision to do so is their own, and pensions paid for injuries may be modest and therefore do not represent a heavy burden for taxpayers.

Between 1955 and the early 1990s, the number of military members released for medical reasons was small, which in a way delayed an awareness of the deficiencies of the *Pension Act* in the context of a professional armed force. In the early 1990s, the end of the Cold War, the increase in the number of peace missions, and major budget cuts began to increase those numbers. The Auditor General estimated that, in 2001, approximately 12% of releases were for medical reasons, and that figure continued to increase with the intensification of Canada's involvement in the conflict in Afghanistan.⁵ Today, between 5,500 and 6,500 military members are released every year, approximately one-quarter of whom leave for medical reasons.⁶ It is essentially for these individuals that the changes introduced by the New Veterans Charter are intended.

The vast majority of these individuals would have preferred not to leave the Canadian Forces, but their condition no longer met universality of military service criteria. According to the universality principle, every CF member must be able to perform a broad range of duties.⁷ If, as a result of any kind of disability, a member can no longer perform some of these duties, that member must be released for medical reasons. Although essential to the maintenance of military solidarity, this principle considerably limits the ability to replace military members injured in the performance of duties in which their disability would not be a handicap. In the Royal Canadian Mounted Police, by contrast, if an officer is wounded in service, there is a duty to accommodate, and continue to employ that officer in the force in duties corresponding to his or her abilities. The transition to civilian life therefore poses a very specific problem for the military. Members who sacrifice

4 The increase in operational stress injuries in recent years has led to greater flexibility in determining whether members are granted medical release or voluntary release since it can take a number of years for symptoms to appear. Members granted voluntary release who experience symptoms should receive the same support as those granted medical release, but this was difficult to provide under the *Pension Act*.

5 Report of the Auditor General of Canada, May 2006, Chapter 2, p. 55. <http://www.oag-bvg.gc.ca/internet/docs/20060502ce.pdf>.

6 Approximately 6,200 members were released in 2008-2009, and of that number 1,600 were medical releases. That number is expected to rise with the end of combat operations in Afghanistan. See the evidence of Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0900.

7 "Among other things, CF personnel must be able to do the following: fire and maintain a personal weapon; conduct nuclear, biological and chemical drills; fight fires; administer first aid, including CPR; communicate using a radio; prepare written military correspondence; deploy on short notice to any geographical location, in any climate; work irregular or prolonged hours; function effectively on irregular or missing meals; travel as a passenger in any mode of transportation; perform under physical and mental stress; and perform with minimal medical support. Additionally, because strength and endurance could mean the difference between success and failure in a military operation, CF personnel must be more physically fit than the general Canadian population." Fit to Serve: Universality of Service and Related Support Programs, March 16, 2009, <http://www.forces.gc.ca/site/news-nouvelles/news-nouvelles-eng.asp?cat=00&id=2918>

their physical integrity in the performance of their duty must, instead of being rewarded, sacrifice their profession and living environment. According to testimonies we heard, many members released for medical reasons consider this an injustice.

One of the witnesses discussed the consequences that involuntary release can have for families. In a study on the impact of post-traumatic stress disorder on families, Ms. Pickrell Baker clearly illustrated the drama of release and the constraints of universality of service:

None of the members I interviewed were released voluntarily; they would say they were pushed out. One had struggled with severe depression. One was released because after 27 years in the military he developed a fear of flying. It had nothing to do with where he was flying; it was some irrational fear of flying. So he was released.⁸

The Veterans Affairs Ombudsman described his own experience in similar terms:

For me and, I dare say, for a great many veterans, leaving the military was a huge culture shock that makes reintegration into the civilian workforce much more problematic than simply finding another job.⁹

It is therefore of the utmost importance for maintaining cohesiveness in the military that release for medical reasons not be experienced as punishment. It is in the very nature of a military operation to require that its members be able to put themselves in high-risk situations. Military members must be convinced that, should they be required to return to civilian life, they will be supported with a regard consistent with the noble nature of that risk. Otherwise, they might perhaps hesitate to take it and thus undermine the success of the operation.

One of the main objectives of the NVC is precisely to facilitate this transition to civilian life, and that is why its spirit was received with overwhelming enthusiasm. Regardless of the legitimate criticisms made since of the means implemented to achieve those objectives, the NVC will always have the merit of having established this spirit of enhancing the well-being of veterans.

8 Ms. Sandra Pickrell Baker (As an Individual), 20 April 2010, 1250.

9 Colonel (Retired) Patrick Stogran (Veterans Ombudsman, Office of the Veterans Ombudsman), 22 April 2010, 1145.

SPIRIT OF THE LIVING CHARTER

The New Veterans Charter was introduced as a bill and given first reading on April 20, 2005; it received Royal Assent slightly more than three weeks later, on May 13. This complex instrument, which profoundly reforms the principles of compensation for veterans in the event of injury or death and took over a system that had been in place for 90 years, was adopted in the House of Commons without amendment or debate. A unanimous motion introduced by the former Minister of Veterans Affairs, the Honourable Albina Guarnieri, was adopted on May 10, 2005 making it possible to skip all the usual stages in the progress of a bill: debate at second reading, referral to a committee, debate on adoption of the report, third reading and adoption. That same day, a debate was conducted in the Senate following the speech of the bill's sponsor in the Upper Chamber, the Honourable Roméo Dallaire. The bill was immediately adopted on second reading and referred to the Standing Senate Committee on National Finance, since the Standing Senate Committee on National Security and Defence was travelling that week. The committee met the next evening and held a marathon four-and-a-half-hour session during which it heard numerous witnesses, including Minister Guarnieri. On the next day, May 12, 2005, at 3:00 p.m. the report, recommending adoption of the bill without amendment, was adopted. The bill received Royal Assent the next day, Friday, May 13.

Some witnesses criticized parliamentarians for failing to do their job by adopting measures this complex so quickly. The purpose of the exceptional measures taken to adopt the bill was to prevent it from dying on the Order Paper and its implementation from being delayed. This unusual procedure instead shows the importance parliamentarians unanimously gave to the matter at that time.

Having been unable to submit the bill to the public debate it would have deserved, the minister undertook to correct quickly its deficiencies if they appeared after the act came into force. It was this commitment that made the NVC what was called a "living document". In that spirit of a living charter, various advisory groups were established to assist the government in making the amendments that might prove necessary. Last year, the government undertook a comprehensive evaluation of the NVC programs in three phases, and the phase one report was tabled in December 2009. That evaluation is to be completed in December 2010. Five years after the legislation received Royal Assent, no amendments to the act or regulations have been introduced, and some impatience is beginning to be expressed within the organizations concerned with veterans' well-being. Representatives of Veterans Affairs Canada showed a degree of flexibility at the possibility of making amendments:

The New Veterans Charter has always been described... as a living charter. Plainly put, this means the New Veterans Charter is not set in stone. Our programs and services have evolved and will continue to evolve to meet our CF clients' ever-changing needs as they arise.¹⁰

Expectations with regard to the results of the government's evaluation are therefore high. To maintain that spirit of openness, the Committee recommends:

Recommendation 1

That Veterans Affairs Canada reiterate its commitment to making the New Veterans Charter a living document, and introduce as soon as possible the 16 framework recommendations made by the New Veterans Charter Advisory Group (see Appendix B), including those entailing legislative or regulatory amendments.

The many measures introduced by the NVC are reviewed in the following sections. It is important to recall, however, that these measures are one way of implementing an entire philosophy designed to support the greater well-being of veterans and their families and to facilitate the transition to civilian life for those who have been released for medical reasons. The criticisms that may be made of the specific measures should not call into question what we propose to call "the spirit of the Charter". In our view, the NVC will remain a major contribution to the greater well-being of veterans as a result of this new spirit that is still positively changing the way we view support for veterans.

10 Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0900.

PHYSICAL AND OCCUPATIONAL REHABILITATION SUPPORT SERVICES

The rehabilitation support services introduced embody the spirit of the NVC. It is the government's duty to ensure that injured military members can rehabilitate physically and lead a satisfying work and personal life. This set of services can be divided into four programs: job placement, recently renamed "career transition services", physical and psycho-social rehabilitation, vocational assistance and the group health care insurance system.

Some of the programs are offered by the Department of National Defence (DND), and some are now offered by Veterans Affairs Canada (VAC) since the implementation of the New Veterans Charter (NVC). DND offers job placement and vocational assistance programs through its Service Income Security Insurance Plan (SISIP) until up to two years after release. VAC offers job placement programs to active members who will be released, and vocational assistance programs to veterans who have completed SISIP programs, or who were not eligible for them. As will be seen, however, these services pose a number of problems, including overlap, and the fact that participation in VAC's job placement and vocational assistance programs has been lower than anticipated.¹¹

The eligibility conditions for the vocational assistance and physical and psycho-social rehabilitation programs are as follows:

- be a former member of the Canadian Forces whose injury or disease, or aggravation thereof, occurred in a special duty area or during a special duty operation, which ultimately means all military operations in which the Canadian Forces have taken part since 1947, with the exception of the Korean War;
- military members released for medical reasons may be entitled to services even if their health problems are not service-related;
- the department must deem that the physical and mental health problems in question prevent a return to civilian life;
- World War II and Korean War veterans are covered under other laws and regulations.

A. Job placement/Career transition

The main characteristics of the **job placement services** described in **Part 1** of the NVC are as follows:

11 Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0910.

- all former members of the Canadian Forces are eligible for those services, regardless whether their situation is governed by the NVC or by the *Pension Act*;
- spouses and survivors are also eligible;
- assistance must be deemed necessary in order to return to civilian life;
- the minister may refuse to provide services if a veteran is entitled to receive them from a third party.

These services are essentially intended for military members who are about to be released. They are thus offered to individuals who are still serving in the CF, which makes additional coordination efforts necessary. These services include three types of activities: workshops on practical topics (CVs, interview preparation, starting up a business, etc.), personalized vocational orientation services (competency tests, career counselling, etc.) in order to develop a transition plan, and job placement assistance with the support of a trainer. Similar services were provided through SISIP but were accessible only to individuals who had been released for medical reasons. The NVC has extended those services to all members leaving the CF.

This program is based on similar services offered by the British Ministry of Defence. In his testimony, the Director General of Policy and Programs at VAC praised its merits.¹² Despite what has been recognized as the intrinsic value of this program, VAC has acknowledged that its results have been very disappointing. There was some participation in workshops, but the other services have been underutilized. In its evaluation report submitted in December 2009, the department addressed the problem and proceeded with a full program review. New measures are expected in the fall of 2010. The Committee therefore recommends:

Recommendation 2

That Veterans Affairs Canada:

pursue its planned agenda of new measures for career transition services that are provided to military members before their release;

communicate clearly the objectives of its career transition programs and the way they operate;

continue to collaborate with the Department of National Defence, in order to clarify VAC's role in providing these services, to further

12 Mr. Darragh Mogan (Director General, Policy and Programs Division, Department of Veterans Affairs), 20 October 2009, 0925.

close the existing gaps in the programs, and to improve participation.

B. Three rehabilitation components: medical, psychosocial and vocational

The purpose of these programs is to supplement the services provided by the Service Income Security Insurance Plan (SISIP). For many years now, the plan has offered vocational assistance services to members in the two years after they leave the Canadian Forces, but it does not provide physical or psycho-social rehabilitation services.

Medical rehabilitation includes health care in the broad sense, including medication, physiotherapy, addiction treatment, if necessary, psychiatric services, and so on. The purpose of psycho-social rehabilitation is to restore veterans' independence. It often involves psychological support, and the most direct intervention with families is usually done through these services. The purpose of vocational rehabilitation is to identify a veteran's skills, determine which civilian jobs are most likely to correspond to them, train for new skills and determine a career plan and personalized follow-up. Vocational rehabilitation services have been subcontracted to a consortium of three specialized businesses that are able to establish a network of suppliers across the country.

Services are transferable to spouses or common-law partners in the event of death, or if the department finds that the rehabilitation program will not be sufficient to enable the veteran to find suitable employment. In addition, participation in a rehabilitation program is a condition that must be met in order to receive the financial benefits described in the next section.

Typical path before and after release for medical reasons

The architecture of the many services that veterans may use before and after release is relatively complex, given the fact that two departments are involved. There are numerous interactions, and some overlap, with other programs of the Department of National Defence, particularly those of SISIP. The typical path outlined below will be used to highlight the stages where VAC intervenes.

Apart from a few situations that we will describe below, VAC intervenes only where there is an injury or disease. The first thing that must be determined is whether the injury or disease is service-related. If the person injured believes that is the case, the second factor to be determined is whether the after-effects of the incident are permanent. If the injury is service-related and there are good reasons to believe the after-effects will be permanent, regardless of the degree of severity, an application for disability award may be filed. If the department finds that the after-effects will be permanent, a lump sum payment of the disability award will be made based on the severity of the disability. If the disability is permanent but does not prevent the military member's condition from meeting universality of service criteria, that person may remain a member of the Canadian Forces, and this may possibly be the only time when contact is established with VAC.

Considering only those persons who were active members of the CF when the NVC came into force, approximately 5,000 received disability awards in the following

three years, two-thirds of whom were still active members after three years. In other words, only one-third of disability award recipients were released for medical reasons.

DND makes a lot of efforts to retain its members, but if universality of service criteria can no longer be met, members are released for medical reasons, whether or not their condition is service-related. Approximately three-quarters of the some 1,500 military members who are released for medical reasons every year are released for service-related injuries or diseases.

When the decision is made to release a member for medical reasons, a transition team is established, consisting of representatives of the CF, Veterans Affairs Canada and the Service Income Security Insurance Plan (SISIP). That team is responsible for establishing a transition plan with the released member. At that stage, job placement assistance services are offered by VAC, but, as noted in the previous section, those services are not very widely used, for many reasons, including the fact that SISIP offers similar services. Only 233 of the 15,000 members who left the CF between 2006 and 2009, including 1,533 disability award recipients, took part in any aspect of the job placement program. Another 4,182 released members participated in a rehabilitation program.

VAC will also determine physical rehabilitation needs when the transition plan is developed, that is to say before release. If immediate services are necessary, the Department of National Defence will nevertheless be responsible for providing them, since the member concerned is still active. In other words, VAC will not begin to intervene directly until after the release. When the decision is made to release him or her, the member can choose to remain in the Canadian Forces for up to three years. It may therefore take up to three years after the injury, before VAC can intervene.

Whether or not their disabilities are service-related, all Canadian Forces members released for medical reasons are automatically eligible for the disability benefits paid under the Service Income Security Insurance Plan (SISIP) in the two years following their release. These benefits are equal to 75% of a member's salary at time of release. As will be seen in the section on financial benefits, the conditions for these benefits are the same as those for the earnings loss benefit that may be paid by VAC.

During the two years following release for medical reasons, SISIP is responsible for providing financial benefits and vocational assistance. VAC usually plays a role during those first two years only if a released member decides to take part in a physical and psycho-social rehabilitation program. However, a member released voluntarily, that is to say for non-medical reasons, may seek assistance for rehabilitation needs, both medical and vocational. In that instance, if the department finds that such a program would assist the transition to civilian life, it may offer it, even a number of years after release.

Thus, during a period ranging from 30 to 60 months from the time of injury until the end of the two-year period following release, VAC's role is to pay a disability award, take a relatively modest part in a transition plan and develop a physical and psycho-social rehabilitation program, if the released member so requests, starting after release. While a

member is still active, the CF is responsible for physical and psycho-social rehabilitation and continues to pay the member's salary. In the two years following release, VAC provides physical rehabilitation at the released member's request, and SISIP pays financial benefits and provides vocational rehabilitation.

Approximately a year and a half following release for medical reasons, SISIP conducts a medical assessment of the member to determine whether the member's incapacity is total and permanent. If SISIP finds that it is not total and permanent, it will stop paying financial benefits and offering vocational rehabilitation after 24 months following release.

VAC's vocational assistance program will not intervene until this time. If the incapacity is not total and permanent two years after a release for medical reasons, and the released member has not found gainful employment in the civilian world, that member will still have access to VAC's rehabilitation program. If the member is still not employable, despite the two years of job placement assistance efforts by SISIP and physical rehabilitation efforts by VAC, the department may continue to pay 75% of the member's salary at the time of release until the member becomes employable again.

If, two years after release, SISIP deems the incapacity total and permanent, that is to say that it will likely prevent the member from engaging in gainful employment again, it will continue paying 75% of salary until the age of 65. In certain exceptional circumstances, VAC may add a permanent impairment allowance to that amount. 17 individuals have received that allowance since the NVC came into force.

In the case of both SISIP's benefits and VAC's earnings loss benefit, any other form of income will reduce the amount of benefits by the same amount. In other words, if a member has other sources of income, such as a CF pension or disability benefits under the Canada Pension Plan, if the total from all those other income sources equals 75% of the member's salary at release, SISIP and VAC will pay nothing. This has been an ongoing concern for the members of the committee.

When the released member reaches the age of 65, VAC may pay a supplementary retirement benefit in a single lump sum corresponding to 2% of the earnings loss benefit for which the member has been eligible since release, that is to say a single maximum payment of approximately \$40,000 in the case of a permanent and severe impairment.

After the age of 65, veterans may count on the CF pension, if they are eligible for it, Canada Pension Plan or Quebec Pension Plan benefits and, if their income is very low, a CF income support benefit administered by VAC.

Program overlap

Despite improvements, all the complex interlinking of programs and responsibilities is thus apparent from the above, as are the administrative difficulties through which released members may have to pass. Despite the challenges, Committee members wish to emphasize that there has been improved cooperation between VAC and the

Department of National Defence at the transition plan development stage in the case of joint personnel support units providing support to recently released personnel.¹³

Another important point is that, apart from the lump sum disability award payment—which amounts to a cheque mailed to the recipient—VAC’s intervention usually comes in second or third position. VAC does not have the legislative authority to initiate programs that involve acting members. Its legislated role is to complement a program initiated by a different organization. As will be seen in the more specific analysis of the various NVC programs, this often late intervention by VAC considerably limits its ability to achieve high success rates for its programs.

What we wish to emphasize here is that this characteristic creates the very distinct impression among released members that VAC’s programs most of the time merely duplicate similar programs offered by the Department of National Defence and SISIP. The consequence is that, despite all the sincere intentions underlying the NVC’s implementation, the Charter often seems to be a mere recycling of existing programs, with the addition of a less generous disability award than what was previously paid as pension. Two remarks by the representative of the Royal Canadian Legion illustrate that perception:

We are suggesting that we are not dealing with similarities; rather, we are dealing with duplication and sometimes triplication. One must ask why VAC developed a New Veterans Charter that in a number of areas duplicates services that were offered by DND and SISIP, while in other instances, some of the new programs seem to have resulted in significant savings for the department while creating additional categories of veterans.¹⁴

Clearly, Veterans Affairs Canada's program does not have the objectives we would like. When you look at the programs of the Canadian Forces, you see that discussions with prospective employers have already taken place for the exact purpose of finding jobs. The way I see it, all of this throws into question the objectives and results that were established when the programs were implemented. Why the duplication?¹⁵

The department itself acknowledges the problem:

Some instances of overlap were identified with VAC’s rehabilitation and job placement programs. In these cases, VAC should further explore the identified overlap to determine if program adjustments are required or if VAC could develop a more collaborative approach with these other federal programs.¹⁶

According to many witnesses, in many cases, rather than create a separate program, VAC would no doubt do better to become a partner in existing DND programs, or

13 Colonel Gerry Blais (Director, Casualty Support Management, Department of National Defence), 23 March 2010, 1140; also Mr. Darragh Mogan (Director General, Policy and Programs Division, Department of Veterans Affairs), 20 October 2009, 0950.

14 Mr. Pierre Allard (Service Bureau Director, Dominion Command, Royal Canadian Legion), 22 April 2010, 1155.

15 Mr. Pierre Allard (Service Bureau Director, Dominion Command, Royal Canadian Legion), 22 April 2010, 1210.

16 Veterans Affairs Canada, *New Veterans Charter Evaluation – Phase I*, December 2009, p. 20.

simply to replace them.¹⁷ The Committee is unable to determine which would be the best option, but finds it particularly unfortunate that VAC can benefit only indirectly from the network of expertise developed by the Department of National Defence for its physical and psycho-social rehabilitation programs. It also seems contrary to common sense not to coordinate vocational assistance and physical and psycho-social rehabilitation programs during the two years following release. The Committee therefore recommends:

Recommendation 3

That VAC collaborate with the Department of National Defence and the Service Income Security Insurance Plan in order to make its programs more consistent, to prevent overlap and to intervene directly with members from the moment the decision is made to release them for medical reasons.

Promoting continued involvement in military life

In her testimony, the representative of the Canadian Association of Occupational Therapists mentioned a very promising pilot project:

One area that has provided concrete results is the return-to-work project developed by occupational therapist and reservist Major Chantal Bérubé at CFB Val Cartier. It has had a positive impact on the well-being of military members returning from deployments. Prior to her work there was a 10% return to active duty, whereas with the implementation of her program nearly 70% of injured soldiers returned to active duty within a short period. This significantly reduced the number of soldiers on disability and the numbers who would have transitioned to civilian life and then hopefully accessed the many services offered by VAC. We have other examples of how we can enhance the care of veterans, and we would be pleased to address these during our discussion.¹⁸

The success of this program seems quite simply spectacular, and knowing the importance members attach to their continued involvement in the Canadian Forces, the Committee would like to recommend:

Recommendation 4

That VAC collaborate with the Department of National Defence to identify and implement all strategies based on best rehabilitation practices around the world, as those presented by the Canadian Association of Occupational Therapists, to ensure that the largest

17 See Colonel (Retired) Patrick Stogran (Veterans Ombudsman, Office of the Veterans Ombudsman), 22 April 2010, 1150; also Mr. Pierre Allard (Service Bureau Director, Dominion Command, Royal Canadian Legion), 29 October 2009, 0935.

18 Ms. Elizabeth Taylor (President, Canadian Association of Occupational Therapists), 24 November 2009, 0915.

possible number of members injured on a deployment can remain active within the Canadian Forces.

This raises the entire issue of the tacit contract between members, the Canadian Forces and the Government of Canada as a whole. When members are released for medical reasons as a result of a service-related injury, that means they must leave the Forces precisely because they have done what the Canadian Forces and the Canadian people expected them to do, that is to say defend the security of Canada at the risk of their own physical integrity, if necessary. It seemed to us that the principle of universality of service was necessary to ensure the cohesiveness of the Forces, but that this principle expired the moment members are released. It also appeared to us that, if the contract with the Canadian Forces terminated because it was important to maintain this principle of universality of service, there was no reason why the contract should expire with the Government of Canada and the Canadian people. If members have complied with the terms of their contract, they should not have to experience release as a punishment or disadvantage and, in that sense, the efforts of the Government of Canada as a whole do not seem to have been consistent with the sacrifice expected of military members.

One witness advanced the principle of the Government of Canada's responsibility as the employer and made the following recommendations:

Going forward, my specific suggestions to you are: recognition by the Government of Canada of its employer responsibilities for disabled veterans; commitment towards implementation of best practice return-to-work and disability management programs, using internationally recognized and adopted optimum practice standards; optimizing holistic rehabilitation outcomes when internal accommodation may not be possible, through, I'm suggesting to you, creative partnerships—for example, with the Canadian Council of Chief Executives for the hiring of disabled veterans; raising awareness on the issue of disabled veterans, for example, by working with the Canadian Labour Congress to allow them to understand the issues faced by disabled veterans in trying to re-establish themselves; and using the rehabilitation departments of provincial workers' compensation boards, whose staff have intimate jurisdictional knowledge of all relevant issues relating to optimizing successful rehabilitation potential for disabled workers.¹⁹

The members of the committee concur in these recommendations, but they go beyond the scope of this report. Without making it a formal recommendation, the Committee still wishes:

That, at the initiative of Veterans Affairs Canada, the Government of Canada formally acknowledge that it has a responsibility to veterans as their employer to make greater efforts to integrate into the public service those who have had to be released for medical reasons, and to initiate partnerships with prospective private and public employers to promote the hiring of veterans.

19 Mr. Wolfgang Zimmermann (Executive Director, National Institute of Disability Management and Research), 20 April 2010, 1130.

The Committee also wishes to make note of the fact that the leadership of the Canadian Forces has taken extraordinary measures in recent years to retain injured and disabled soldiers for up to three years before transitioning to civilian life. In a further thought, we suggest that Veterans Affairs Canada, beyond the existing Public Service guidelines for the priority employment of veterans in government departments, consider a program of proactively hiring any veteran, not just those who are injured or disabled, to enhance the experience level of their workforce, particularly in areas that conduct outreach to veterans at large.

Benefits of early intervention

Veterans Affairs Canada is facing obvious limits as a result of the fact that it does not have the authority to intervene until the member has been released. The clearest description of the problem was provided by a departmental representative:

The National Institute of Disability Management and Research reports that, without early intervention, an injured worker has only a 50% likelihood of returning to work after being laid off for six months, with this percentage dropping dramatically to 20% after one year and to 10% after two. VAC is working closely with National Defence to ensure the Canadian Forces members who may become Veterans Affairs clients receive necessary interventions as early as possible, and this will ensure that they are able to achieve positive outcomes and successfully transition to civilian life. In other words, intervention must occur as soon as possible prior to an individual's release from the military after an injury or illness.²⁰

An injured worker has only a 10% chance of returning to work after two years. VAC's vocational rehabilitation programs cannot start until those of SISIP have wound up, that is to say two years after release.²¹ In other words, it is already known that veterans who enrol in VAC's vocational rehabilitation programs have limited chance of success. The department itself has calculated that only 15% of veterans currently in SISIP vocational rehabilitation programs will go on to access VAC's vocational rehabilitation services.²²

Members find it hard to understand why something so obvious was not considered when VAC's vocational rehabilitation programs were developed. If VAC must have a vocational rehabilitation program, that program must start the moment a decision is made to release a member. That does not prevent the program from continuing to be offered in other circumstances, for example, to members who were released a number of years ago and who now have new needs. The Committee therefore recommends:

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- 20 Mr. Bernard Butler (Director General, Program Management, Department of Veterans Affairs), 16 March 2010, 1105; see also Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0900.
- 21 Mr. André Bouchard (President, Service Income Security Insurance Plan (SISIP), Department of National Defence), 23 March 2010, 1115.
- 22 Veterans Affairs Canada, *New Veterans Charter Evaluation – Phase I*, December 2009, p. 19.

Recommendation 5

That VAC collaborate with the Department of National Defence and SISIP enabling it to intervene through its vocational rehabilitation program from the moment the decision is made to release a member from the Canadian Forces for medical reasons.

Various intervention strategies will obviously be required, depending whether the disability is physical or related to mental health problems, but if the primary objective is to promote the transition to civilian life, it seems clear that VAC must be able to intervene immediately with members, that is to say when they are still active.

Access to rehabilitation programs for family members

The NVC is often presented as offering increased support for families compared to what was offered under the *Pension Act*. A number of witnesses raised doubts about such statements. For example, Brenda MacCormack from VAC told the committee:

There is significantly more family support under the New Veterans Charter. In the case of someone who's more seriously disabled and where the veteran can't partake in vocational rehabilitation, the spouse can access that. We'll pay for the training. We'll pay for all of the associated expenses of tuition, child care, etc.

There's also a very generous package outlined in scenario four, in the case of death, where the surviving spouse would be paid the death benefit, which is currently \$276,000.

The survivor would also be entitled to the earnings loss benefit until the veteran would have turned age 65. The supplementary retirement benefit would be payable. Educational assistance is offered to children for post-secondary studies. As well, the survivor in that case can access vocational assistance.²³

With respect to financial benefits, the only mention made of families is in the event of death, or where the veteran's disability is total and permanent. Support is obviously necessary for families in these most serious cases, but we found that support for families should be more widespread. In the case of rehabilitation programs, support for families appeared to be a secondary concern, since the only gateway to family support services is through the veterans themselves.

[She] needed a referral from [her husband's] psychologist in order for her to gain support through the military trauma treatment centre. This was very frustrating because these women could have really used that peer support, a place to debrief and have a barometer of whether they were being unreasonable with their expectations--which we all can be--or whether it was really the husband's behaviour that was unreasonable.²⁴

We consider this view entirely sensible, and the Committee wishes to recommend:

23 Ms. Brenda MacCormack (Director, Rehabilitation, Department of Veterans Affairs), 16 March 2010, 1145.

24 Ms. Sandra Pickrell Baker (As an Individual), 20 April 2010, 1210.

Recommendation 6

That the family members of veterans be able to access VAC rehabilitation programs independently, and that all important information pertaining to the rehabilitation program be made available without breaching confidentiality.

The family members of military members have access to more than 30 Military Family Resource Centres. These centres appear to provide significant support, but “once the person becomes a veteran, they’re out of that system and then it becomes extremely difficult to get the kind of support that’s needed.”²⁵ Once again, the transition to civilian life may well be interpreted as a punishment and, in this case, even for the families who can no longer access these centres. Discussions seem to be underway to allow access to the centres to be maintained after the member has been released. The Committee wishes to support that initiative.

Unexpected length of rehabilitation

The department originally anticipated that a normal rehabilitation program would take 18 to 24 months. Costs would therefore be limited, and the financial benefits available as part of the program, in particular the earnings loss benefit, would only be paid for a short period of time. In fact, however, only some 10% of participants in a rehabilitation program have completed that program after three years.²⁶ This is a surprising result that may mean either that the programs developed are not effective or that long-term rehabilitation needs were underestimated. The causes of the phenomenon seem complex, and it is important that VAC be able to determine them accurately in order to guarantee that its programs are effective. The Committee therefore recommends:

Recommendation 7

That VAC conduct a detailed analysis of the reasons for the unexpected length of the rehabilitation program and report the results in its NVC programs evaluation plan.

Public Service Health Care Plan

The NVC enables veterans to access the benefits of the Public Service Health Care Plan by paying a monthly premium equivalent to that paid by other employees of the Federal Public Service. The committee members agree with this decision of course. It is a measure that would be unnecessary if, like the Royal Canadian Mounted Police, the CF had to accommodate injured members by guaranteeing them a different position within the

25 Ms. Muriel Westmorland (Professor and Chair of the Committee, New Veterans Charter Advisory Group), 19 November 2009, 1000; see also Colonel (Retired) Donald S. Ethell (Chairman, Committee No. 3 - Family Support, New Veterans Charter Advisory Group), 19 November 2009.

26 Veterans Affairs Canada, *New Veterans Charter Evaluation – Phase I*, December 2009, p. 11.

organization. Since the principle of universality of service renders this kind of measure inapplicable, it is normal for veterans released for medical reasons to be covered in a way that is equivalent to what they would have received if they were still employed by the CF.

However, several witnesses raised the point that such insurance coverage was not offered for dental care. The purpose of the NVC is indeed to increase support for families, dental coverage should be provided since dental care is often a major expense for children.²⁷ The Committee therefore recommends:

Recommendation 8

That all former CF members be eligible for Public Service Dental Care Plan coverage for the cost of a monthly premium equivalent to that paid by federal public service employees.

C. Financial benefits

Participation in a rehabilitation program is the condition that must be met to be eligible for the financial benefits defined in Part 2 of the NVC. These financial benefits are separate from the lump sum disability award, the purpose of which is to compensate for pain and suffering as a result of a service-related injury, whereas the purpose of the financial benefits is to compensate for earnings loss resulting from that injury if the member must be released from the CF for medical reasons. These financial benefits are: the Earnings Loss Benefit, the Supplementary Retirement Benefit and the Permanent Impairment Allowance.

Each of these measures will be analyzed, but it is important to emphasize that these measures are in addition to or replace the disability benefits paid under the Service Income Security Insurance Plan (SISIP). It is essential to understand the mechanisms of this program and, to a certain point, its history in order to judge the effectiveness of the financial benefits under the NVC.

SISIP disability benefits

SISIP disability benefits are provided as part of an insurance program. As such, the value of the benefits is related to that of the premiums paid by the members and their employer. The plan's generosity therefore varies based on what the members and their employer consider it reasonable to pay. In the case of military members released for medical reasons, SISIP automatically pays 75% of salary during the two years following release. This threshold is based on an economic calculation of the correspondence between the value of the benefits and the cost of the premiums. It is entirely independent of any philosophy reflecting a tacit contract between military members and Canada with respect to financial security guarantees for the future in case of injury. Furthermore, SISIP was originally designed in 1969 to exclude the payment of financial benefits to military

27 Mr. Bruce Henwood (Ad Hoc Advisory Group on Special Needs), 27 April 2010, 1215.

members who were receiving a pension. In other words, an injured military member receiving a pension under the *Pension Act* could not receive SISIP disability benefits. The aim of the plan was the same as that of any collective insurance plan to which the employer contributed: to guarantee a minimum level of security in the event of disability or death.

Those receiving a pension felt they were at a disadvantage since the pension they received was often less than the 75% of salary guaranteed by SISIP. In other words, those whose injury was service-related could receive less than those whose injury was not. To correct that injustice, veterans receiving a pension became eligible for SISIP program in 1976, but in order to standardize their benefits with those received by the program's other clients, receipt of a pension reduced the benefits paid by SISIP by the same amount.²⁸

Originally, if the disability was deemed to be total and permanent, veterans received SISIP benefits for life. Once again, as the plan was an insurance program, its amount was linked to the size of premiums paid, not to any military commitment philosophy.

In 1995, to limit growth in the cost of premiums, the plan was amended and, rather than be paid for life, benefits were paid until the age of 65.²⁹ This detail is important since, as will be seen below, the earnings loss benefit is modelled on SISIP's disability benefits. The question therefore arises whether the earnings loss benefit would have been paid for life if it had been introduced 10 years earlier.

A number of witnesses criticized the fact that, rather than reflect a certain philosophy of military commitment, the financial benefits offered under the NVC were simply based on a form of financial logic, in this instance insurance logic.

From an organizational point of view, from a bureaucratic point of view, the insurance principle tends to drive you to minimize payouts, because the reward is the minimum that you can pay out, and it drives us in the wrong direction, particularly in bureaucracies.

I think one of our concerns is that the service income security insurance plan piece of work inside the Department of National Defence was built upon that principle, and a lot of those thoughts have progressed or migrated out into the veterans affairs side as well. We tend to see a lot of the programs in veterans affairs driven by that insurance principle. That's our concern with that one.

It's kind of an underlying or a foundational type of thinking that goes into the approach to some of these benefits, and I think that's really where our concern is. We need to walk

28 Mr. André Bouchard (President, Service Income Security Insurance Plan (SISIP), Department of National Defence), 23 March 2010, 1135.

29 <https://www.acc-vac.gc.ca/clients/sub.cfm?source=forces/nvc/reference>.

away from that altogether and start looking at this from a human dimension and take that approach, as opposed to the insurance principle.³⁰

SISIP's policies are comparable to those in effect under other collective disability insurance plans. For example, federal public service employees who injure themselves while on vacation and whose disability becomes total and permanent will receive 70% of their salary until the age of 65. Members find it entirely reasonable that CF members should have disability insurance coverage protecting them in the event of non-service-related injury. However, they believe that coverage should not serve as a model in the case of service-related injury.

In the case of service-related injury, CF members are at a distinct disadvantage relative to other jobs involving a high level of risk. For example, under provincial workers compensation plans, in most police and firefighting collective agreements, individuals injured in service will usually be guaranteed non-taxable compensation equivalent to 100% of net salary. The minimum coverage under provincial workers compensation plans varies between 80% and 90% of salary where the disability is temporary, and various adjustments are paid when the disability is declared permanent.³¹

Committee members find it hard to understand how income replacement conditions can be less advantageous for military members injured in service than for any other public service employee. We would even tend to think that those conditions should be more advantageous for military members, to show the gratitude they deserve for putting their lives in danger.

Let's say I serve my country, I'm injured, and I'm being released because of that. I'm trying to be rehabilitated and I'm on medication or being treated medically, but then they cut my salary by 25%, tax it, and then kick me out of an organization that I was part of since I was 17 years old. That just doesn't work.³²

As will be seen in the following analysis, the various financial benefits offered under the NVC do not guarantee sufficient financial security. Authorities must also avoid considering the value of the disability award that has been paid when evaluating an income replacement program. This lump sum payment of a disability award is not an income replacement measure and should therefore not be understood as a compensation for an inadequate income replacement program.

30 Brigadier-General (Retired) Gordon Sharpe (As an Individual), 19 November 2009, 0910; also Dr. Patrick Loisel (New Veterans Charter Advisory Group), 19 November 2009, 0915; and Mr. Lorne McCartney (Dominion Secretary-Treasurer, Army, Navy and Airforce Veterans in Canada), 24 November 2009, 0910.

31 See Workers' Compensation Benefits and Rehabilitation Canada at <http://www.awcbc.org/en/workerscompensationbenefitsandrehabilitation.asp>.

32 Mr. Hugh Marlowe Fraser (Advocacy Executive Director, Canadian Peacekeeping Veterans Association), 26 November 2009, 0950.

Earnings loss benefit

If veterans are participating in a rehabilitation program, this benefit guarantees 75% of gross income until members are once again able to hold “suitable gainful” employment based on their qualifications or until they reach the age of 65. The purpose of the benefit is to provide a supplementary incentive for veterans to take part in a rehabilitation program. In the event of death, the benefit may not be transferred to the spouse or survivors unless the death was a consequence of a service-related injury or disease. In other words, the spouses and survivors of veterans who have been released for non-service-related medical reasons are not eligible for the benefit.

One of the merits of this benefit is that those who are not released for medical reasons but who later discover that they are suffering from an injury, such as the consequences of post-traumatic stress disorder, will be covered, whereas that would not previously have been the case.

However, the disadvantage of this benefit is that it is modelled on the insurance coverage provided by SISIP, and we therefore consider it adequate in the case of a member released for medical reasons as a result of a non-service-related injury. On the other hand, we consider it to be inadequate as an income replacement measure for military members whose injuries are service-related.

One of the reasons for the decision to limit the amount of the benefit to 75% was to motivate veterans to take a rehabilitation program. A departmental representative described this idea as follows:

It's important to recognize that there is a principle established in disability management that the amount of support provided by EL—this is the earnings loss program that you're referring to—will be somewhat less than the amount an individual was earning when he or she was actually earning. I know you understand there are principles related to that.³³

Once again, this principle is valid for disability insurance plans but irrelevant if the injury is viewed as an occupational injury. This may be an effective characteristic in certain cases, but, in actual fact, it is tantamount to penalizing veterans who do not need a rehabilitation program, that is to say those with the more serious injuries. That is why a distinction should be made between the earnings loss benefit, where the disability will likely prevent the veteran from returning to work, and the case in which the disability will not prevent a return to work. Most provincial workers compensation plans draw this distinction between temporary and permanent disability.

Earlier studies had been recommended to set the earnings loss benefit at 75 % of gross income, but to make it non-taxable, which would have amounted to a benefit of 90% or 100% of net income:

33 Mr. Ken Miller (Director, Program Policy Directorate, Department of Veterans Affairs), 6 May 2010, 1125.

For example, if we were to decide not to tax, as Dr. Neary's research indicated in the past, the 75% figure was used because it was a non-taxable benefit. We've kept it at 75% but made it a taxable benefit, so we've actually reduced it further.³⁴

In addition, a veteran's CF pension, SISIP and Canada Pension Plan (CPP) benefits and any other income reduce or cancel the earnings loss benefit. Since the threshold is currently 75% of salary, only half of eligible veterans have incomes low enough to be entitled to it. Consequently, the earnings loss benefit constitutes a genuine incentive to rehabilitation in far fewer cases than anticipated, which makes it a less significant and less costly measure than planned. In 2008-2009, a total of \$19 million in earnings loss benefits was shared among approximately 1,000 veterans, whereas more than 6,000 received a disability award.³⁵

Consequently, the Committee recommends:

Recommendation 9

That the earnings loss benefit become a non-taxable benefit representing the equivalent of 100% of a veteran's net income at the time of release, where that release is the consequence of a service-related injury.

In addition, in its current form, the earnings loss benefit is indexed to the consumer price index only if the increase does not exceed 2%. This is also modelled on disability insurance plans. This limit on benefit indexing changes nothing in the current context in which inflation is very low, but, we believe it may be unfair in future circumstances. The Committee therefore recommends:

Recommendation 10

That the earnings loss benefit be adjusted annually based on the consumer price index.

The other factor raised by numerous witnesses is that the threshold of 75% of income at the time of release does not take into account opportunities for promotion that veterans would have if their injury or disease had not prevented them from continuing their careers.

We don't escalate or have any kind of increase in the base. If you're a young private or young corporal when something happens, that's it. For the rest of your career, your entire pension time is based on that original salary.

34 Brigadier-General (Retired) Gordon Sharpe (As an Individual), 19 November 2009, 1015; also Mr. Lorne McCartney (Dominion Secretary-Treasurer, Army, Navy and Airforce Veterans in Canada), 24 November 2009, 0925.

35 Veterans Affairs Canada, *New Veterans Charter Evaluation – Phase I*, December 2009, p. 11.

We're suggesting strongly that this be pro-rated over the years, assuming that the average corporal would eventually become a sergeant, would eventually become a warrant officer, etc., and in some phenomenal cases, like the officer to my left, eventually a colonel. There is a significant increase that would come if we were to allow that baseline to keep moving forward as a normal career would. There's a variety of those that we have identified and fed back into the Department of Veterans Affairs.³⁶

Most workers compensation plans provide for these kinds of adjustments based on what's called "estimated net earnings loss". This is a general request by the advisory groups established by VAC. The Committee supports the reasons given in support of that request and therefore recommends:

Recommendation 11

That VAC and DND undertake an investigation to provide fairness in income replacement compensation that reflects a standard military career progression.

Supplementary retirement benefit

The purpose of this benefit is to compensate for the difficulty that veterans in rehabilitation, who earn only 75% of the income they were earning when they left the CF, have in saving. That difficulty is aggravated by the fact that the earnings loss benefit does not grant entitlement to CPP/QPP premiums or to a registered retirement savings plan.

The benefit corresponds to 2% of total income earned by veterans during the period during which they are involved in a rehabilitation program, that is to say 2% of the 75% referred to above. The average benefit is estimated at \$17,000, and the maximum benefit may rise to nearly \$40,000.³⁷ It is transferable to a veteran's spouse or survivors in the event of death, paid in a single instalment when the veteran reaches or has reached the age of 65 and is taxable.

The one-time payment of a taxable benefit limits its advantages since it will influence the veteran's taxable income threshold. The remedy for this situation would be for veterans to pay the amount into an RRSP, which they are entitled to do until the age of 71; however, this presupposes that they have earned enough employment income to be entitled to make the contribution. At the same time, neither the earnings loss benefit nor the other disability benefits enable veterans to contribute to a pension plan. The most likely

36 Brigadier-General (Retired) Gordon Sharpe (As an Individual), 19 November 2009, 1015; also Mr. Lorne McCartney (Dominion Secretary-Treasurer, Army, Navy and Airforce Veterans in Canada), 24 November 2009, 0925; Mr. Pierre Allard (Service Bureau Director, Dominion Command, Royal Canadian Legion), 22 April 2010, 1150; Dr. Victor Marshall (Chair, Gerontological Advisory Council), 29 April 2010, 1110; Mr. Lorne McCartney (Dominion Secretary-Treasurer, Army, Navy and Airforce Veterans in Canada), 24 November 2009, 1000.

37 See "Regulatory Impact Analysis Statement," appended to the *Canadian Forces Members and Veterans Re-establishment and Compensation Regulations*.

result is that the supplementary retirement benefit will be taxed at a veteran's highest marginal tax rate in the year in which it is paid.

In other words, when a veteran receives a cheque for \$15,000, for example, in the year he or she reaches the age of 65, that person may be unpleasantly surprised to have to repay a significant portion of that amount when filing his or her next tax return, whereas the benefit was intended to compensate for the difficulty veterans have in saving.

Another problem with this benefit is that it is based on a saving rate of 2% of an income equal to 75% of salary at the time of release. Veterans are unlikely to refuse this supplementary income, but a taxable lump sum payment equal to 2% of 75% of initial income in fact equals approximately 1% of income at the time of release, if that amount had been paid into a pension plan. This is far from constituting adequate saving.

If this 1% in savings had been invested in a pension plan in the year in which the earnings loss benefit was paid, a veteran would also have enjoyed the cumulative return on that investment until withdrawal at the age of 65. Therefore, in reality, this amounts to a savings rate of less than 1%.

We will have to wait until 2017 before a significant number of veterans under the NVC regime reach the age of 65, after taking a rehabilitation program. In the meantime, the supplementary retirement benefit will not be a major issue, but it could become one if it is observed that veterans' standard of living declines when they reach the age of 65.

Some workers compensation plans require or permit contributors to deposit, for example, 10% of the annual permanent disability allowance in a pension plan to offset problems in saving. An initiative of this kind would undoubtedly correct the deficiencies of the supplementary retirement benefit. The Committee therefore recommends:

Recommendation 12

That the supplementary retirement benefit undergo a thorough review to permit regular and sufficient contributions to a pension plan, particularly for veterans with a total and permanent incapacity.

Canadian Forces income support benefit

The purpose of this benefit is to offset the earnings loss of veterans who become employable again—and therefore are no longer receiving the earnings loss benefit—but have not yet found employment. The benefit is non-taxable and may equal approximately \$1,200 a month for a single individual, \$1,800 for a couple and \$300 more per dependent child. It is calculated on the basis of family income and subject to reductions in proportion to other household income.

This benefit in fact constitutes support of last resort for low-income veterans who have successfully completed a rehabilitation program but who have no other sources of

income apart from this benefit. This program merely continues the terms of an existing Canadian Forces program, and it was subject to little discussion in the course of the Committee's proceedings.

Permanent impairment allowance

This benefit may be paid on an exceptional basis where the minister deems that the disability is too serious and that the rehabilitation program will likely not be sufficient to enable the veteran to return to gainful employment. A taxable amount of \$500, \$1,000 or \$1,500 a month may be paid based on the severity of the disability. Since 2006, 17 permanent impairment allowances have been paid as of June 10, 2010.

It appears the initial aim of this benefit was to avoid penalizing veterans whose disability was too serious for them to undergo a rehabilitation program, or simply to recognize the additional costs of a severe disability for an entire family. The Committee was therefore somewhat surprised to learn that the benefit had also been provided to offset earnings loss as a result of a lack of career advancement:

As I'm sure you can appreciate, it is difficult to see into the future and anticipate where somebody may arrive in a career, but it's a real factor. We recognize that to have somebody halted at the point where they were doesn't compensate them fairly into the future. That was one of the key reasons for the creation of the permanent impairment allowance.

The feeling was that we should focus it on those who are most seriously disabled, and the criteria related to it are focused around the more significant injuries. The specific policy objective of the permanent impairment allowance program is to recognize the impact that it can have on career progression and advancement. Now, one could argue whether it fully compensates and fully recognizes, but it does in some measure, and that was certainly the intention.³⁸

Committee members were not convinced that the permanent impairment allowance was the appropriate way to compensate for the loss of professional advancement since it is not gradual and is paid only in the most serious cases, whereas all veterans with a permanent disability lose these advancement opportunities. It appears from another testimony that a different objective was pursued by this permanent impairment allowance:

If someone is severely injured, there's also a permanent incapacity allowance. That's a regular payment that's paid in recognition that some of these individuals are going to have intermittent work. In other words, they might find a job, they're off our books, but they run into a problem later and they have to go back. So there's a permanent incapacity allowance that's paid for the most severely injured.³⁹

If this benefit is in fact provided for the most serious cases, it seems reasonable to imagine that the individuals who have suffered the most severe injuries will be the least

38 Mr. Ken Miller (Director, Program Policy Directorate, Department of Veterans Affairs), 6 May 2010, 1125.

39 Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0940.

likely to “work intermittently”. The ambiguous nature of this benefit was noted by a number of witnesses.

Veterans Affairs will tell you there's a permanent incapacity allowance—PIA, for short—that special needs veterans may qualify for. This is an allowance for life, but it is taxed. The main drawback is it's so restrictive in its eligibility criteria that I think to date three PIAs have been awarded. It might be five now, but it's a very small number. So it's smoke and mirrors. Many permanently disabled special needs veterans simply will not qualify for PIA.⁴⁰

The principles of this benefit therefore remain unclear, and given the limitations of its eligibility criteria, it should not even be mentioned in the overall structure of financial benefits under the NVC.

We believe that promoting the permanent impairment allowance as a measure demonstrating the generosity of the financial benefits under the NVC is misleading.

Seriously wounded veterans are also eligible for a permanent incapacity allowance, which recognizes that there are challenges in seeking stable, continuing employment.⁴¹

These kinds of comments suggest that most seriously injured veterans will receive the permanent impairment allowance, which is clearly not the case. A number of departmental representatives commented to that effect.

The programs, as they're designed, are intended to compensate to a certain extent for that. All of the earnings-loss stream.... I mentioned the permanent impairment allowance, which is an allowance that takes into account someone's lack of capacity to participate in a career, or if they are able to work, that they recognize that those with higher levels of disabilities do experience a lack in career progression, so that is a benefit that is payable over the lifetime of the member.⁴²

The benefit is presented as compensating for the fact that the earnings loss benefit stops at the age of 65. That would definitely be the case if its eligibility criteria were flexible, but as long as only one or two individuals a year receive it, we feel there is no justification in touting its advantages.

Recommendation 13

That VAC more clearly define the objectives of the permanent impairment allowance and assure veterans whose injuries are too serious to enable them to return to gainful employment are eligible.

40 Mr. Bruce Henwood (Ad Hoc Advisory Group on Special Needs), 27 April 2010, 1140; also Mr. Hugh Marlowe Fraser (Advocacy Executive Director, Canadian Peacekeeping Veterans Association), 26 November 2009, 1010.

41 Mr. Brian Ferguson (Senior Assistant Deputy Minister, Policy, Programs and Partnerships, Department of Veterans Affairs), 20 October 2009, 0905.

42 Ms. Brenda MacCormack (Director, Rehabilitation, Department of Veterans Affairs), 16 March 2010, 1145.

Uncertain standard of living at 65

Committee members expressed concern about the lack of information that would enable them to anticipate the situation of a seriously wounded veteran upon reaching the age of 65. The earnings loss benefit stops at the age of 65, and the permanent impairment allowance is only paid under exceptional circumstances. Consequently, all that is left is the Canada Pension Plan or the Quebec Pension Plan and Old Age Security. Since the earnings loss benefit does not grant entitlement to make contributions to pension plans, it is reasonable to expect a significant drop in income for injured veterans who are not receiving a substantial pension from the CF.

The earnings loss benefit is not considered earned income, but it is taxed, which is interesting. That's another one of our concerns, that we tax these benefits. It's not considered earned income for the purposes of the CPP, or for your registered retirement savings plan. Quite frankly, our sense is that this is wrong. It takes away the ability of the individual to increase their retirement benefits, and of course when they hit age 65 it ceases, it stops. It's a double whammy, if I can use that term. I think we've expressed that in the report, that you're not allowed to build up your own retirement benefits, either through the Canada Pension Plan nor through an RRSP based on this as earned income, but you lose it at tax, and at 65 you lose the whole damned thing. It's simply not a good situation.⁴³

This could particularly affect seriously injured military members who have less than 10 years of service and are therefore not eligible for a full CF pension. This is a concern when we know that, in 2006, 31% of CF members had less than six years of service.⁴⁴

Recommendation 14

That VAC revise the overall structure of the financial benefits offered under the New Veterans Charter so as to ensure that veterans receive equivalent benefits beyond the age of 65.

43 Brigadier-General (Retired) Gordon Sharpe (As an Individual), 19 November 2009, 1015; also Mr. Bruce Henwood (Ad Hoc Advisory Group on Special Needs), 27 April 2010, 1140.

44 Report of the Auditor General of Canada, May 2006, Chapter 2, p. 55, <http://www.oag-bvg.gc.ca/internet/docs/20060502ce.pdf>.

DISABILITY AWARD AND DEATH BENEFIT

Part 3 of the NVC gave rise to the most heated discussions because it defines the terms of the **disability award** that was meant to replace the lifetime monthly payments provided for under the *Pension Act* with a single lump sum payment in the case of injury or disease that is service-related or aggravated by service.

This is the only part under which a veteran may seek a review or file an appeal with the Veterans Review and Appeal Board, and that, under section 43, sets out a principle of interpretation that favours the applicant.

This part of the Act also defines the terms of a **death benefit**, a **clothing allowance** and a **detention benefit**.

A. Disability award

The purpose of this award is to provide compensation for pain and suffering resulting from an injury or disease that is service-related or aggravated by service. It may be paid to a military member who is still active or to a veteran. It is calculated on the basis of a degree of disability from 0% to 100%, multiplied by the maximum amount established at \$250,000 in 2005 and subsequently indexed. The maximum non-taxable amount for 2010 is \$276,079.70.

The main question concerning this award may be stated as follows: An injury or disease resulting in a long-term disability causes significant disruption in the life of any individual. Where that incident also follows exposure to at times extreme stress in the course of military operations, is it reasonable to expect a veteran to be able to reflect calmly enough to make the most judicious decisions regarding the use of that lump sum amount?

Witnesses unanimously answered that question with a firm “no”. For example, Colonel (retired) Patrick Stogran told the committee:

In my view, it doesn't make sense to hand a disabled veteran a fistful of money and expect that they have the means to go off and start a new life for themselves.⁴⁵

Military members may receive up to \$500 for professional financial advice. This initiative is, of course, welcome, but it seemed quite clear that offering financial advice to individuals receiving this award was not enough to ensure that the best investment decisions would be made. Also, these services appear to be under-utilized. There are

45 Colonel (Retired) Patrick Stogran (Veterans Ombudsman, Office of the Veterans Ombudsman), 22 April 2010, 1145; and among others: Colonel Gerry Blais (Director, Casualty Support Management, Department of National Defence), 23 March 2010, 1130; also Mr. Elphège Renaud (President, Association du Royal 22e Régiment), 27 April 2010, 1220; Mr. Claude Sylvestre (First Vice-President, Association du Royal 22e Régiment), 27 April 2010, 1245; Dr. Victor Marshall (Chair, Gerontological Advisory Council), 29 April 2010, 1110.

cases in which the payment of a large lump sum simply does not seem appropriate, such as, for example, where a person's life is totally disrupted by the physical, psychological, family, social and vocational consequences of a disability.

While abiding by the principle of individual responsibility, it might be desirable to offer alternatives, particularly where recipients of a disability award are still members of the CF and a professional assessment suggests they may find it difficult to make proper decisions about their financial future.

These young people do not have much foresight. I asked them directly how much money they had left. They all answered me that they had completely run out of money. These are normal reactions. They purchased a big vehicle worth between \$35,000 and \$40,000. This is a poor investment, and I would perhaps have done the same thing. The government must do their thinking for them to make sure that their financial future is secure. We are currently creating homeless people. When these veterans reach the age of 50 or 60, even if they have received money, they will not have any more. Even if we talked until midnight and repeated that they should not have done this or that, the government must do their thinking for them, as it did for the veterans of the Second World War or of the Korean War, like myself. However, if they had given me \$200,000 or \$300,000, I would perhaps have done the same thing as these young people did and I would be broke today.⁴⁶

Most comments pointed toward some form of structured payments. In his appearance, the Minister of Veterans Affairs showed that he was open to these kinds of alternatives, noting, in particular, the option of spreading payment of the award over a period of five years. Other options do exist and could be offered, with some insistence if necessary, without however questioning the principle of the award.

Some witnesses observed that certain countries offer lump sum payments and that does not appear to pose a problem. However, specialists explained that, even if the value of the award is calculated as a lump sum, it is always paid in instalments.

The Australian workers' compensation boards, for example, still have lump sum payments, but they are always paid out as structured settlements, because there's overwhelming evidence that...it's almost like winning the lottery for a lot of individuals. All of a sudden the resources have been used up and all of a sudden you come into a whole lot of money. It's just the reality of our world that if you have a lot of money, you're going to find a whole lot of friends who are going to help you spend it. That's just the nature of how this is going to work. That's why that approach is not being used.⁴⁷

Any form of structured payment of the disability award, however, would come up against the problem of comparison with what was paid under the *Pension Act* system. Based on the scenarios submitted to the Committee by the department, and upon consultation with the Canadian Life and Health Insurance Association, it became apparent that, in the case of a military member who becomes totally disabled and, at the age of 31,

46 Mr. Elphège Renaud (President, Association du Royal 22e Régiment), 27 April 2010, 1240.

47 Mr. Wolfgang Zimmermann (Executive Director, National Institute of Disability Management and Research), 20 April 2010, 1145.

receives the maximum lump sum payment of approximately \$276,000, that person could buy a life annuity guaranteeing a monthly income of between \$1,000 and \$1,500, depending on his or her health and changes in interest rates. In comparison, a lifetime monthly pension under the *Pension Act* would have paid out approximately \$4,000 a month, including premiums based on the individual's family situation. In other words, under the most reasonable decision that a young veteran could possibly make, the disability award would represent approximately one-quarter of what would have been paid out as pension.

This situation is likely to cause discontent within the CF, since active members who have received the disability award are at a distinct disadvantage relative to those who have a comparable disability but receive a pension.⁴⁸

The *Pension Act* was not designed to offer income replacement measures, but, as a result of its relative generosity in the most serious cases and the regular monthly payments it provides for, it has been interpreted as an income replacement measure. It was generous in large part because it was accompanied by no other form of income replacement. With the development of the modern pension system, a veteran's pension was rightly considered as a supplementary income bonus, not as compensation for suffering.⁴⁹ There can be no doubt that it would take a considerable lump sum amount to replace the earnings loss of an entire lifetime.

The disability award would probably have been received more positively if the income replacement measures had been better. As noted in the last section, the logic of the financial benefits under the NVC is hard to understand, and their overall value is less than that under workers compensation plans. A military career is a career unlike any other, and military members who risk their lives to preserve national values should not be given less consideration than workers injured on the job. This difficulty is obvious, but for one reason or another, the designers of the NVC do not appear to have taken it into account.

Some witnesses recommended completely abandoning the disability award and returning to the *Pension Act* system.⁵⁰ We do not consider that option reasonable, given all the problems raised regarding the fact that that act no longer reflects modern military life.

If the financial benefits under the NVC genuinely made it possible to guarantee veterans' financial security, the amount of the disability award would be less important since it would be considered as a bonus to compensate for suffering, not as a way to offset earnings loss.

Some witnesses mentioned the possibility of offering a choice between a lump sum amount and instalments. Committee members were quite receptive to the comments of

48 Mr. Pierre Allard (Service Bureau Director, Dominion Command, Royal Canadian Legion), 29 October 2009, 0915.

49 Mr. Elphège Renaud (President, Association du Royal 22e Régiment), 27 April 2010, 1220.

50 Brief of Sean Bruyee, Recommendation 29, p. 4.

the veterans' ombudsman, who felt that this option would be tantamount to doing nothing since the vast majority of military members would take the lump sum amount. To use his expression, the CF and VAC must exercise "tough love" in this instance.

In light of the evidence heard, and emphasizing the need for an in-depth reform of the system of financial benefits provided to replace income, Committee members have come to support the idea that the payment of the disability award in instalments would promote veterans' financial security. The Committee therefore recommends:

Recommendation 15

That, by 1 November 2010, Veterans Affairs Canada present to the House of Commons Standing Committee on Veterans Affairs a plan with options for a new system of Disability Awards where the severity and nature of the disability, and the age and circumstance of the soldier or veteran, are taken into account on a case by case basis through a combination of lump sum payments, annuities and/or structured settlements.

The maximum value of the disability award was questioned on a number of occasions. Committee members were unable to reach a final judgment on this issue in view of the contradictory information submitted to them. Therefore, the committee believes that VAC should resolve all ambiguity regarding compensation directed by the courts in similar disability cases.

We did look at the courts for the awards that are made there, and at the time—I would stand to be corrected—if memory serves, I believe it was around \$276,000, so a bit above the \$250,000 where we started. I think the current rate is around \$326,000. Again I would stand to be corrected on that.

So we're a bit below where the courts stand. We are exactly where some other federal government programs were, including SISIP, which paid out \$250,000 at the time.⁵¹

The hesitation of departmental representatives on this matter might suggest that it was not thoroughly examined. Once again, the compensation measures for military members injured in service should never be less than what is paid to members of the general population in similar circumstances.

As you'll notice in one of our comparisons, we take that lump sum payment, for example, which we give our soldiers if they lose a leg or an arm, or whatever, and compare it to what would happen in the civil sector if you lost your arm or leg in a car accident, or whatever. It's about a half. ... If a soldier loses a leg, that should be at least the same as if you lose a leg in a car accident. That's really what we're trying to say here. We're not

51 Mr. Ken Miller (Director, Program Policy Directorate, Department of Veterans Affairs), 6 May 2010, 1155; also Mr. Darragh Mogan (Director General, Policy and Programs Division, Department of Veterans Affairs), 20 October 2009, 0915.

saying they have these gold-plated awards, but we should be actually looking for comparability.⁵²

Furthermore, no comparison should be drawn with collective disability insurance plans since, under those plans, the value of compensation is determined by a choice that will result in an adjustment based on premiums paid. In addition, the value of that compensation is established based on the amount of life insurance coverage. In other words, if SISIP has set a maximum death benefit of \$250,000, that indicates nothing significant about the intrinsic value of a total disability for a former member of the CF. Any subscriber to a life insurance plan can choose to increase or reduce coverage based on his or her needs. SISIP's life insurance program moreover offers any CF member the option of increasing coverage to \$400,000. Based on the same logic, why not set the maximum disability award at \$400,000?

Insurance principles seem inappropriate for the purpose of putting a value on the suffering and pain that are the consequences of a service-related injury or death. In this matter, Committee members believe that the arguments raised by the courts should be considered when addressing the issues raised here. The Committee therefore recommends:

Recommendation 16

That VAC commission an independent professional analysis of court judgments to establish the actual value of compensation paid for pain and suffering resulting from a permanent disability.

Benefits for family members

Under the *Pension Act* system, an adjustment was granted to reflect the family situation of the injured military member. This consideration for family members has disappeared from the NVC, a fact that was poorly received by a number of witnesses, particularly considering that the new programs are promoted with emphasis on increased family support.

What has gone out of the New Veterans Charter is a spousal allowance. It wasn't a large allowance, but it recognized the spouse and the support the spouse provided to their married partner. As a disabled veteran, I can't take a shower unless my wife is around, in case I fall. So it's a handicap for her to look after my handicap. But she was remunerated in a small sense for that.

As a Pension Act veteran, my kids received what was called a children's allowance. It wasn't a lot, but as a double amputee, I can't play road hockey very well, but I could take the kids to hockey games. So I used the children's allowance for that. This is stuff the family does.

52 Brigadier-General (Retired) Gordon Sharpe (As an Individual), 19 November 2009, 0935.

For those who are even more highly disabled, which I qualify for, there was also an attendant's allowance. It allowed us to bring in help every now and then, if needed, and do those things around the house that I just can't do. Those have all been removed in the New Veterans Charter.⁵³

Taking care of a seriously injured person can be an enormous task. Obviously, a veteran is compensated, but spouses cannot hope for the same career progression in view of these obligations toward an injured veteran.

Again, the New Veterans Charter has failed. I am over 100% disabled. My wife has had to quit work to look after me. Yet there is no compensation out there for her. When I asked why, I was told that she is my wife and she is expected to look after me. I thought that was very demeaning.⁵⁴

The department showed a somewhat open attitude toward the problem:

The thinking at the time—and this is a living charter, so thinking can change—was family coverage came through the Public Service Health Care Plan, through being able to use the veteran's benefits if the veteran was unable to use them as a result of service. Just like the court awards and workers' compensation lump sum awards, there's not a recognition of the individual's social status, rather the pain and suffering the individual goes through. Recognize there's a counter-argument on that, and we do recognize that, but as part of the living charter at least there are discussions, and we're aware of that.⁵⁵

To emphasize the importance that should be attached to family support under the NVC, the Committee recommends:

Recommendation 17

That Veterans Affairs Canada ensure that family members who take care of severely disabled veterans are compensated appropriately

Death benefit

This benefit is payable if the death occurs within 30 days of the injury, disease or the aggravation thereof that resulted in the death. The amount is the same as the maximum amount of the disability award. If the death occurs more than 30 days after the injury, disease or the aggravation thereof, the 100% disability award is paid in lieu of the death benefit.

This benefit was debated in committee as a result of an ambiguity that still persists despite the explanations provided by the departmental representatives.

53 Mr. Bruce Henwood (Ad Hoc Advisory Group on Special Needs), 27 April 2010, 1200.

54 Mr. William Maguire (As an Individual), 29 April 2010, 1235.

55 Mr. Darragh Mogan (Director General, Policy and Programs Division, Department of Veterans Affairs), 20 October 2009, 0945.

What happens after 30 days is that the benefit paid to the survivor is not the death benefit. It is either the full amount or the residual amount of the disability award that would have been paid to the veteran. The reason it was structured that way is because beyond a point of 30 days, the veteran could well have applied for the disability award and may have received a portion. What will happen is that either the full amount or a residual amount of the disability award will be paid to the survivor.

For example, if perhaps there was an injury, and 20 per cent or 30 per cent was paid to the veteran, and then some time later the veteran died from that actual condition, the residual amount would be paid to the survivors.⁵⁶

The persistent ambiguity is as follows: under subsection 54(1) of the NVC, the maximum amount of a disability benefit may not exceed 100%. In other words, if, in a very serious case, the cumulative disabilities exceed 100%, the amount of the benefit would be limited to 100%: “In respect of the aggregate of all the member’s and veteran’s disability assessments and deemed disability assessments, no disability award shall be granted in respect of any percentage points exceeding 100 per cent.”

On the other hand, the death benefit is paid, regardless of circumstances, and is not reduced by the previously paid amount of any disability award whatever. However, the following scenario could occur. An active member of the CF has received a disability award for injury X resulting in a 15% disability. On a subsequent mission, the same member suffers another injury and dies on the thirty-second day following that injury. His family will not be entitled to the death benefit since more than 30 days have elapsed, but will nevertheless be entitled to the residual portion of the disability benefit, that is to say 85%.

If the member had died on the thirtieth day instead of the thirty-second, his family would have received the full death benefit. In the second case, the family would have received a total of 115% of the maximum amount of the disability award, whereas, in the first case, it would have received only 100% simply as a result of the 30-day time period. The same calculation is valid if the deceased member has previously received a pension under the *Pension Act*. A complex formula is set out in the Regulations accompanying the NVC and may be used to estimate the total value of the pension previously paid and to deduct that amount from the disability award remaining to be paid following the death, if it occurred after 30 days. In the case of a death, it is generosity that should be called for more than ever, not regulatory logic, no matter how coherent and justifiable. The Committee therefore recommends:

Recommendation 18

That Veterans Affairs Canada ensure that all soldiers who die as a result of a service-related injury are treated equitably.

56 Mr. Ken Miller (Director, Policy and Programs Directorate, Department of Veterans Affairs), 6 May 2010, 1220.

CONCLUSION

The New Veterans Charter represents a comprehensive reform of support and compensation programs for veterans. The vast majority of those affected have welcomed this reform very enthusiastically, and it has in turn received the unanimous support of the House of Commons and the Senate. It is a complex act however with multiple ramifications and its full impact could not be anticipated immediately. This is why it was presented as a living document, subject to amendment if any of the measures adopted had unanticipated consequences that were opposed to the spirit of the act. A number of advisory groups submitted their recommendations and the government, drawing on the work of these groups, is also evaluating the programs implemented under the NVC. The Committee wishes to add its contribution to these many efforts by reiterating the evidence heard from the individuals and groups affected by these major transformations.

The evidence heard can be summarized under four main observations that reflect the progress made since the NVC was implemented and the many challenges that remain for the programs under the Charter to fulfill its intent.

Our first observation is that the NVC is a significant improvement over the regime under the *Pension Act*. Providing support for rehabilitation and the transition to civilian life is a fundamental aspect of the act and we are confident that this intent will make it possible to correct the shortcomings noted four years after the Charter came into effect.

Our second observation pertains to rehabilitation support programs: placement assistance, occupational and physical rehabilitation, health care and family support. These programs represent a significant improvement over the old regime since measures are now in place to provide veterans all the assistance they may need in the event of injury. Nonetheless, these programs have not yet reached their full potential. While we do not question their intrinsic value, we have not yet seen the desired results. The main challenge is coordinating the efforts of National Defence and Veterans Affairs Canada to provide for quicker response for active members of the Canadian Forces. The legislative boundaries between these two departments sometimes stand in the way of their sincere desire to cooperate. Significant progress has been made since the NVC came into force, but it is still difficult for Veterans Affairs Canada to offer its programs before members have been released. We sincerely hope that solutions to these problems will be found quickly since the quality of veterans' rehabilitation depends directly on it: their full rehabilitation is essential to fulfilling the intent of the NVC.

The third observation pertains to financial benefits, that is, income replacement measures, which are separate from the lump sum disability award. They include the earnings loss benefit, the permanent impairment allowance and the CF income support benefits administered by Veterans Affairs Canada. In our opinion, these measures have not achieved a fair balance between providing an incentive for occupational reintegration and financial security that is commensurate with the considerable sacrifices expected of those who defend our values, at great peril to themselves. This is why we recommended,

as most advisory groups already had, that the earnings loss benefits be increased and that the eligibility criteria for the permanent impairment allowance be reviewed.

The fourth and final observation pertains to the lump sum disability award, which was the most contentious topic of debate in Committee. Two aspects were addressed in particular: the fact that the award is paid in one lump sum, and the amount of the award. As to the method of payment of the award, it is clear that more than one option must be offered in order to minimize the risk for persons whose condition might make it difficult for them to properly manage a large sum. At the same time, those for whom a lump sum is the best option must not be penalized. As to the amount of the award, we sense that it would not be so contentious for certain witnesses if income replacement measures were more generous. The disability award is often criticized for failing to provide financial security for veterans. Yet this is not what it is supposed to do. The income replacement measures, especially the earnings loss benefit, are intended to provide financial security, while the disability award is intended as compensation for the pain and suffering caused by an injury. Veterans tend to see the disability award as making up for the shortcomings in the income replacement measures. The tendency is to compare the disability award to the lifetime pension paid under the *Pension Act*. While the pension may seem more generous, the fact that this act did not make any provision for lost income is often overlooked. It is argued that SISIP benefits are the same thing as the earnings loss benefit; this breeds growing confusion over the merits of one system over another and people gradually drown in the esoteric nuances of each system. This confusion is not helpful and if the income replacement measures were more generous and were no longer linked to SISIP benefits, this could mitigate some of the dissatisfaction with the disability award. In other words, if income replacement measures provided financial security for veterans, the disability award would no longer be seen as an income replacement measure and would less often be compared to pensions paid in the past.

In our opinion, there are two main challenges in the coming years for the NVC to fulfill its purpose: Veterans Affairs Canada must be able to offer its rehabilitation programs as soon as possible to members and their families after a release decision has been made; and the earnings loss benefit must be increased. This would give veterans and their family a better chance of making a successful transition to civilian life and in the meantime would ensure that their family's financial needs are taken care of. Moreover, veterans whose disability prevents them from finding gainful employment without going through rehabilitation programs could count on long-term financial support from Veterans Affairs Canada. In this way the intended purpose of the disability award would be more apparent. While no amount of money can relieve the physical, psychological and emotional suffering of service members and their families, the benefit would serve as a concrete symbol of the government's and Canadians' recognition of their past and present service.

LIST OF RECOMMENDATIONS

Recommendation 1

That Veterans Affairs Canada reiterate its commitment to making the New Veterans Charter a living document, and introduce as soon as possible the 16 framework recommendations made by the New Veterans Charter Advisory Group (see Appendix B), including those entailing legislative or regulatory amendments.

Recommendation 2

That Veterans Affairs Canada:

pursue its planned agenda of new measures for career transition services that are provided to military members before their release;

communicate clearly the objectives of its career transition programs and the way they operate;

continue to collaborate with the Department of National Defence, in order to clarify VAC's role in providing these services, to further close the existing gaps in the programs, and to improve participation.

Recommendation 3

That VAC collaborate with the Department of National Defence and the Service Income Security Insurance Plan in order to make its programs more consistent, to prevent overlap and to intervene directly with members from the moment the decision is made to release them for medical reasons.

Recommendation 4

That VAC collaborate with the Department of National Defence to identify and implement all strategies based on best rehabilitation practices around the world, as those presented by the Canadian Association of Occupational Therapists, to ensure that the largest possible number of members injured on a deployment can remain active within the Canadian Forces.

That, at the initiative of Veterans Affairs Canada, the Government of Canada formally acknowledge that it has a responsibility to veterans as their employer to make greater efforts to integrate into the public

service those who have had to be released for medical reasons, and to initiate partnerships with prospective private and public employers to promote the hiring of veterans.

Recommendation 5

That VAC collaborate with the Department of National Defence and SISIP enabling it to intervene through its vocational rehabilitation program from the moment the decision is made to release a member from the Canadian Forces for medical reasons.

Recommendation 6

That the family members of veterans be able to access VAC rehabilitation programs independently, and that all important information pertaining to the rehabilitation program be made available without breaching confidentiality.

Recommendation 7

That VAC conduct a detailed analysis of the reasons for the unexpected length of the rehabilitation program and report the results in its NVC programs evaluation plan.

Recommendation 8

That all former CF members be eligible for Public Service Dental Care Plan coverage for the cost of a monthly premium equivalent to that paid by federal public service employees.

Recommendation 9

That the earnings loss benefit become a non-taxable benefit representing the equivalent of 100% of a veteran's net income at the time of release, where that release is the consequence of a service-related injury.

Recommendation 10

That the earnings loss benefit be adjusted annually based on the consumer price index.

Recommendation 11

That VAC and DND undertake an investigation to provide fairness in income replacement compensation that reflects a standard military career progression.

Recommendation 12

That the supplementary retirement benefit undergo a thorough review to permit regular and sufficient contributions to a pension plan, particularly for veterans with a total and permanent incapacity.

Recommendation 13

That VAC more clearly define the objectives of the permanent impairment allowance and assure veterans whose injuries are too serious to enable them to return to gainful employment are eligible.

Recommendation 14

That VAC revise the overall structure of the financial benefits offered under the New Veterans Charter so as to ensure that veterans receive equivalent benefits beyond the age of 65.

Recommendation 15

That, by 1 November 2010, Veterans Affairs Canada present to the House of Commons Standing Committee on Veterans Affairs a plan with options for a new system of Disability Awards where the severity and nature of the disability, and the age and circumstance of the soldier or veteran, are taken into account on a case by case basis through a combination of lump sum payments, annuities and/or structured settlements.

Recommendation 16

That VAC commission an independent professional analysis of court judgments to establish the actual value of compensation paid for pain and suffering resulting from a permanent disability.

Recommendation 17

That Veterans Affairs Canada ensure that family members who take care of severely disabled veterans are compensated appropriately

Recommendation 18

That Veterans Affairs Canada ensure that all soldiers who die as a result of a service-related injury are treated equitably.

APPENDIX A List of Witnesses Second Session, 40th Parliament

Organizations and Individuals	Date	Meeting
Department of Veterans Affairs Brian Ferguson, Senior Assistant Deputy Minister, Policy, Programs and Partnerships Darragh Mogan, Director General, Policy and Programs Division	2009/10/20	27
Royal Canadian Legion Pierre Allard, Service Bureau Director, Dominion Command Wilf Edmond, Dominion President	2009/10/29	30
As Individual Gordon Sharpe	2009/11/19	34
New Veterans Charter Advisory Group Donald S. Ethell, Chairman, Committee No. 3 - Family Support Patrick Loisel Muriel Westmorland, Professor and Chair of the Committee		
Army, Navy and Airforce Veterans in Canada Lorne McCartney, Dominion Secretary-Treasurer	2009/11/24	35
Canadian Association of Occupational Therapists Elizabeth Taylor, President Claudia von Zweck, Executive Director		
Canadian Association of Veterans in United Nations Peacekeeping Ronald Griffis, National President		
As Individual Perry Gray	2009/11/26	36
Canadian Peacekeeping Veterans Association Hugh Marlowe Fraser, Advocacy Executive Director		
Gulf War Veterans Association of Canada Louise Richard, Freelance advocate for disabled veterans and their families		
As Individual Daniel Feighery, Film Director "Gagetown"	2009/12/08	37
Widows on a Warpath	2009/12/08	37

Organizations and Individuals	Date	Meeting
B. Lorraine Bartlett, Member		
Margaret Hogan, Member		
Bette Jean Hudson, Member		
Carletta Matheson, Member		
Department of Veterans Affairs	2009/12/10	38
Rachel Corneille Gravel, Executive Director, Ste. Anne's Hospital		
Brian Ferguson, Senior Assistant Deputy Minister, Policy, Programs and Partnerships		
Darragh Mogan, Director General, Policy and Research		

APPENDIX B List of Witnesses Third Session, 40th Parliament

Organizations and Individuals	Date	Meeting
Department of Veterans Affairs	2010/03/16	2
Bernard Butler, Director General, Program Management		
Brenda MacCormack, Director, Rehabilitation		
Department of National Defence	2010/03/23	4
Gerry Blais, Director, Casualty Support Management		
André Bouchard, President, Service Income Security Insurance Plan (SISIP)		
Doug Chislett, National Director, Service Income Security Insurance Plan (SISIP)		
David C. Kettle, Chaplain General		
Veterans Review and Appeal Board	2010/03/30	5
John D. Larlee, Chair		
Dale Sharkey, Director General		
Royal Canadian Mounted Police	2010/04/01	6
Rich Boughen, Acting Director General, Occupational Health and Safety Branch		
Alain Tousignant, Director General, Workplace, Development and Wellness, Human Resources		
As Individuals	2010/04/15	7
Sean Bruyeya, Retired Captain (Air Force), Advocate and Journalist		
Carolina Bruyeya, Veteran's Spouse		
As Individual	2010/04/20	8
Sandra Pickrell Baker		
National Institute of Disability Management and Research		
Wolfgang Zimmermann, Executive Director		
Office of the Veterans Ombudsman	2010/04/22	9
Patrick B. Stogran, Veterans Ombudsman		
Royal Canadian Legion	2010/04/22	9
Pierre Allard, Service Bureau Director, Dominion Command		

Organizations and Individuals	Date	Meeting
Ad Hoc Advisory Group on Special Needs Bruce Henwood	2010/04/27	10
Association du Royal 22e Régiment Elphège Renaud, President Claude Sylvestre, First Vice-President		
As Individual William Maguire	2010/04/29	11
Gerontological Advisory Council Victor Marshall, Chair		
Royal United Services Institute of Nova Scotia Heather MacKinnon, Medical Doctor		
Department of Veterans Affairs Debbie Gallant, Director, Benefit Operations Ken Miller, Director, Program Policy Directorate Anne-Marie Pellerin, Director, Disability Programs and Income Support	2010/05/06	12
As Individuals Sean Bruyeya, Retired Captain (Air Force), Advocate and Journalist Carolina Bruyeya, Veteran's Spouse	2010/05/11	13
Department of Veterans Affairs Janice Burke, Acting Director, Mental Health Jane Hicks, Acting Director, Operational Direction and Guidance Brenda MacCormack, Director, Rehabilitation	2010/05/13	14
As Individuals Harold Leduc Francine Matteau	2010/05/25	15

APPENDIX C
List of Briefs
Second Session, 40th Parliament

Organizations and individuals

Canadian Association of Occupational Therapists

Grant, Jeannette

New Veterans Charter Advisory Group

Royal Canadian Legion

Widows on a Warpath

**APPENDIX D
List of Briefs
Third Session, 40th Parliament**

Organizations and individuals

Bruyea, Sean

**APPENDIX E:
RECOMMENDATIONS FROM
THE NEW VETERANS CHARTER ADVISORY GROUP
(NVCAG) AND THE SPECIAL NEEDS ADVISORY
GROUP (SNAG), ORGANIZED BY TOPIC**

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INTRODUCTION

This document presents 202 distinct recommendations drawn from the 294 recommendations made in the 4 reports from the Special Needs Advisory Group (SNAG) and the report from the New Veterans Charter Advisory Group (NVCAG). They have been organized by topic and therefore may not be in the same order as in the original reports. It is also important to note that some recommendations address programs that are only indirectly related to the New Veterans Charter (NVC), but whose nature or implementation were affected by the coming into force of the NVC.

Special Needs Advisory Group (SNAG):

- SNAG 1: 26 January 2006, 80 recommendations;
- SNAG 2: 16 November 2006, 45 recommendations;
- SNAG 3: 14 December 2007, 86 recommendations; and
- SNAG 4: January 2009, 6 framework recommendations. Summary of observations and shortcomings.

New Veterans Charter Advisory Group (NVCAG): One report submitted in June 2009 with 77 recommendations.

After each recommendation in this document, a reference is given to indicate which report(s) it was taken from and the page number of the English version where the recommendation can be found. The letters (L), (R) and (A) indicate if the implementation of the recommendation would require a legislative, regulatory or administrative amendment, respectively. Administrative amendments include mandatory policies, such as the ones that come from the Treasury Board. Recommendations requiring a legislative or regulatory amendment are indicated in bold.

Summary:

- 97 recommendations directly address the content of the New Veterans Charter and its evaluation;
- 16 recommendations address support for families;
- 34 recommendations address health care under the *Veterans Health Care Regulations*;

- 55 recommendations address VAC's administrative processes.

RECOMMENDATIONS THAT DIRECTLY ADDRESS THE CONTENT OF THE NEW VETERANS CHARTER AND ITS EVALUATION

A. General Recommendations for the NVC as a Whole

- 1) Review the eligibility criteria for all New Veterans Charter programs to ensure that "family" is defined consistently and that family members have equitable access to services.(GCNCAC, 23 and GCBS 3, 16, R)
- 2) CF and VAC to jointly define "on duty". (GCBS 3, 22, R)
- 3) The following, just to name a few, are samples of ill-defined terms that would also require referencing to supporting policies:
 - a) Family
 - b) Holistic
 - c) Caregiver (including terms of references and VAC expectations)
 - d) Escort for medical treatment
 - e) Respite
 - f) Case Management (GCBS 3, 18, A)
- 4) VACS considers increasing the number of Service Officers in various veterans' organizations, not just the RCL, and provide them training with regards to the NVC. (GCBS 3, 19, A)

B. Rehabilitation Services and Vocational Assistance

- 5) **The 120 day application criteria needs to be reviewed and extended, particularly for those injuries that may present themselves years after release, such as mental health issues. (GCBS 1, 19, L)**
- 6) Continue to work to provide integrated (rather than sequential) physical, psychosocial and vocational rehabilitation services. (GCNCAC, 38, A)
- 7) Include vocational rehabilitation and contact with the workplace, beginning early in the rehabilitation process, to give Veterans and families hope (GCNCAC, 38, A)

- 8) VAC should give Veterans and families ongoing access to rehabilitation services after they have returned to civilian life, without requiring them to go through a lengthy process of reapplying and justifying their need. (GCNCAC, 42, A)
- 9) VAC should change eligibility requirements to allow all Veterans and spouses who have a health condition to apply for rehabilitation services. (GCNCAC, 42, L)

C. Career Transition Services

- 10) **Expand eligibility criteria for vocational training and job placement services to include all spouses of disabled Veterans. (GCNCAC, 26, R)**
- 11) Improve access to education including University upgrading for veterans. In the case where the veteran is not able, provide this opportunity for the spouse. (GCBS 2, 21, GCBS 3, 19 and GCNCAC, 37, A)
- 12) Explore the potential for Veterans and families to take advantage of federal and provincial government programs that support self-employment and the development of small businesses, and help Veterans navigate this system. (GCNCAC, 38, A)
- 13) Influence the culture, attitudes, and physical environment within workplaces by educating potential employers on the benefits of hiring Veterans. (GCNCAC, 38, A)
- 14) Establish performance incentives for providers (e.g., hold back 30% to 40% of fees until the Veteran has been successfully employed for six months). (GCNCAC, 38, A)
- 15) Follow Veterans who have made the transition to the workplace for at least three years to assess their progress and determine who is successful and why. (GCNCAC, 38 and GCBS 1, 14, A)
- 16) VAC to lead by example and hire veterans from all levels of disability. VAC must take an active role, through the case manager in assisting the client in the job placement program and following up if successful, VAC should not simply hand it off to a 3rd party contractor. (GCBS 1, 13, A)

- 17) VAC should maintain an employment search database at the District Office for client and case manager use. (GCBS 1, 13, A)
- 18) VAC track job placement statistics for special needs veterans and consider putting in place incentives to encourage employers to hire disabled veterans. (GCBS 2, 16, A)
- 19) VAC needs to more clearly define what “work” means. Work, or employment, must be seen as meaningful, commensurate with the level of responsibility and training held in the military, a boost to self-esteem and not de-meaning. (GCBS 1, 23, A)

D. Financial Benefits Program

- 20) VAC contract a 3rd party independent agency to conduct an unbiased actuarial review comparing the benefits of the NVC to the *Pension Act*. In this observation an Actuary is considered to be a pre-eminent expert on financial risk. The findings of such a review would have to be made public. (GCBS 1, 22, A)
- 21) **The removal of spousal and children benefits in the NVC without being replaced with anything tangible needs to be corrected, perhaps the provision of a spousal or children allowances needs to be reconsidered (GCBS 2, 20 and GCBS 3, 17, L)**
- 22) VAC hire more Pension Officers trained and located within the Director of Casualty Support and Administration (DCSA) detachments on all CF bases. (GCBS 3, 19, A)
- 23) This standoffish approach by VAC should be discontinued immediately and VAC should provide assistance to make or initiate all applications on behalf of all Special Needs Veterans. (GCBS 1, 23, A)

1. Earnings Loss Benefits and the SISIP

- 24) **VAC no longer align its programs and benefits with SISIP-LTD. (GCNCAC, 32, L)**
- 25) **Reinforce the difference between the previous “insurance model” approach to benefits and the New Veterans Charter philosophy. (GCNCAC, 23, L)**

- 26) As long as SISIP-LTD continues to exist, Treasury Board pay 100% of long-term disability premiums for active members of Canadian Forces for coverage of service-related injuries. (GCNCAC, 31, A)
- 27) DND eliminate the SISIP-LTD program with respect to service-related injuries, and offer a disability program for non-service related injuries. (GCNCAC, 31)
- 28) The role or relationship between SISIP and VAC, with SISIP being a DND sponsored program and VAC with its own programs need to be better defined to ensure the Veteran is not compromised through internal differences of SISIP and VAC responsibilities. (GCBS 1, 14, A)
- 29) **It is recommended that the minimum starting salary for any earnings loss benefit be Corporal basic rather than Private trained or some other mechanism that provides tangible income if the member must revert back to 75% of pre-release salary. (GCBS 1, 14 and GCNCAC, 34, R)**
- 30) **Ensure parity, as a minimum, between ELB and similar Public Sector plans, including what are considered deductions and what are taxed. (GCBS 2, 15, R)**
- 31) **Provide annual increases to the ELB based upon current rates of pay and annual CF pay rate increases. (GCBS 2, 15, R)**
- 32) **Consider the severity of injury and the likelihood that the veteran may never be able to re-enter the workforce in any productive manner to provide a factor to take the ELB beyond 75% for those special needs veterans (this would be in addition to any other benefits such as the Permanent Incapacity Allowance (PIA)). (GCBS 2, 16, L)**
- 33) **Recognize that many Canadians work beyond 65 and the widespread industry trend is to increase the mandatory age of retirement, therefore ELB should not be capped at 65; in fact it is recommended that it continues for life and not to be offset by deductions. (GCBS 2, 16, L)**
- 34) **VAC should consider some form of cost of living allowance or adjustment similar to the Accommodation Assistance Allowance (AAA) that is in place with DND and other federal departments. (GCBS 1, 15, R)**

- 35) The phrase Income Offsets need to be better detailed as most members are not necessarily aware of the full implications of this term. Presently Case Scenarios do not specify any income offsets and their effects on total income. (GCBS 1, 15, A)
- 36) There should be a clear and definitive statement as to which sources of income are not considered for Income Offsets in the calculation of both VAC and SISIP coverage. (GCBS 1, 15, A)
- 37) SISIP needs to validate calculations used in the Case Scenarios prepared by VAC. (GCBS 1, 15, A)
- 38) VAC, in conjunction with SISIP, produce a plan/timetable where elements of both SISIP and the NVC are streamlined in order to better serve the Veteran. The current arrangements are extremely confusing and have in some instances curtailed VAC from offering more comprehensive services. (GCBS 1, 23, A)
- 39) Set the Earnings Loss Benefit at 100% of earnings and make it taxable. This would make the payment more fair, and give Veterans greater financial stability. (GCNCAC, 33, L)
- 40) Use a probable earnings approach to establish benefit levels for long-term recipients of the Earnings Loss Benefit. If the medically discharged Veteran had remained in the Canadian Forces, his or her rank and salary would have increased. The permanently impaired Veteran's income should not be frozen at a low level simply because of the injury received during service. VAC should use the average career profile for a member of the Canadian Forces as the basis for regular increases in the Earnings Loss Benefit over time. (GCNCAC, 33 and GCBS 2, 17, R)
- 41) Provide financial stability for permanently impaired Veterans age 65 and older by either continuing to pay the Earnings Loss Benefit until death or, as a simple alternative, using a Veteran's Earnings Loss Benefit as the basis for calculating his or her Canadian Forces Superannuation and Canada Pension. (GCNCAC, 34, R)**

2. Permanent Impairment Allowance

- 42) The Legislation needs to specify and define the term "economic loss". (GCBS 1, 16, L)**

- 43) **A Veteran who cannot work due to a permanent physical or psychological incapacity must receive compensation for the impact that his/her incapacity will have on earning's potential and career progression and should thus be eligible for PIA. (GCBS 4, 6, GCBS 1, 17, GCNCAC, 35 and GCBS 3, 26, L)**
- 44) **VAC considers making this award available to injured serving members whose release, for the very reasons PIA is awarded, is inevitable. (GCBS 3, 24, R)**
- 45) **Implement a Catastrophic Injury benefit. (GCBS 3, 24, L)**
- 46) **Adjust the PIA to allow for an exceptional grade. (GCBS 3, 24 and GCBS 1, 17-18, R)**
- 47) **Change PIA to make it a non-taxable indexed benefit. (GCBS 1, 16, R)**
- 48) **Review all cases of Veterans deemed permanently impaired to determine whether they are eligible for a Permanent Impairment Allowance, including those who are currently being kept in the regular forces. (GCNCAC, 35, A)**
- 49) **Make the Permanent Impairment Allowance retroactive to the date of the impairment, no matter when that date occurred. (GCNCAC, 35, R)**
- 50) **Make Veterans who have service-related needs and later become permanently incapacitated eligible for the Permanent Impairment Allowance, and/or consider re-establishing the Exceptional Incapacity Allowance to recognize loss of quality of life and help meet the needs of aging severely disabled Veterans. (GCNCAC, 35 and GCBS 1, 17, R)**

3. Supplementary Retirement Benefit

- 51) **Canada Customs and Revenue Agency (CCRA) needs to be consulted to allow for a roll over of this benefit into a RRSP without incurring taxes. (GCBS 1, 17, and GCBS 2, 16, A)**

- 52) **The calculation of 2% of the 75% pre-injury income is seen as disadvantageous to the Veteran, the 2% should be based upon 100% of the pre-injury income (GCBS 1, 17, R)**
- 53) **Provide the benefit prior to age 65 in order to maximize interest growth potential over time. Consider annual disbursements that can be rolled over into an RRSP, tax-free. (GCBS 2, 15, R)**
- 54) **Ensure there is, as a minimum, parity with other similar/parallel plans within the public sector. (GCBS 2, 15)**
- 55) **At a minimum, ensure an adequate standard of living in retirement for Veterans who rely on the Disability Award and/or Earnings Loss Benefit for their income, by recognizing that the Supplementary Retirement Benefit is inadequate for most seriously disabled Veterans and surviving spouses, and by significantly increasing the benefit and making it non-taxable. (GCNCAC, 34, R)**

4. Canadian Forces Income Support

- 56) **The income-test must take into account regional disparity. (GCBS 1, 17, R)**

5. Disability Awards

- 57) **Increase the disability award to make it consistent with the maximum awarded by Canadian courts for personal injury claims and by other nations to their Veterans. (GCNCAC, 36 and GCBS 3, 26, L)**
- 58) **Develop options for paying out the Disability Award, including making a series of payments over time or allowing the lump sum to be converted into an annuity. (GCNCAC, 36, GCBS 1, 20, and GCBS 2, 15, R)**
- 59) **Provide appropriate funding (i.e., >\$500 currently allowed) to allow Veterans and families to hire qualified financial advisors. (GCNCAC, 36 and GCBS 1, 20, A)**

- 60) The Table of Disabilities used in awarding disability pensions under the *Pension Act*, must be the same Table of Disabilities used in awarding the Disability Award under the NVC unless changes are warranted and the Veteran is not disadvantaged. (GCBS 1, 18, A)
- 61) A new rating system that encompasses all areas of an internationally accepted standard, the ICF, must be used to determine a true level of disability of a Special Needs Veteran. (GCBS 4, 2, A)
- 62) The Case Manager or some legal entity (guardian or power of attorney) be empowered to monitor and assist the Veteran if there is a possibility of abuse of the award. VAC has to take some responsibility for putting the Veteran in this position. (GCBS 1, 18, A)
- 63) The Case Manager, regardless of the size of the award, must be made aware of the percentage of disability and award itself. (GCBS 1, 18, A)
- 64) Controls must be put in place to ensure the veteran does not misuse the DA. (GCBS 3, 23 and GCBS 2, 22, A)
- 65) **The criteria used in the determination of the Disability Award needs to be revised to ensure that those Special Needs Veterans suffering from permanent, debilitating catastrophic injuries are compensated commensurate with the severity of their injury(ies) recognizing the uniqueness of lifetime of physical or psychological pain and suffering. (GCBS 4, 3 and GCBS 2, 15, L)**
- 66) **The Disability Award calculation must also take into consideration the Primary Caregiver and children of a veteran. This provision would allow for further recognition that the disability of the veteran impacts the family as a whole. The calculation of the disability award must recognize the Caregivers and families own pain and suffering in providing 24/7 care to their SN veteran. (GCBS 3, 15, GCBS 3, 18-19 and GCBS 4, 4, L)**
- 67) **Consider the provision of an annual supplementary DA based upon initial DA amount and the consumer price index, i.e. if the DA was assessed at \$100,000 and the CPI for a given year is 2.5% then the annual supplementary DA would be \$2,500 for that year. (GCBS 2, 14, and GCBS 3, 25-26, L)**
- 68) VAC needs to closely monitor the DA program for fairness and suitability in meeting the veterans' needs. If, over time, the DA is not meeting the needs of the new veterans, VAC should seek adjustments

to the DA. This includes considering reverting back to a monthly indexed award similar in nature to the Disability Pension under the *Pension Act*, even if this includes Treasury Board reassessment. (GCBS 2, 14, A)

- 69) There should be some form of audit of District Offices to ensure standardization of the disability award application and approval processes. (GCBS 1, 19, A)
- 70) VAC clearly state when the DA percentage is determined and develop policies and business processes that ensures that VAC compliance on timings of determination of DA are made. (GCBS 3, 33, R)**
- 71) VAC provides the DA within a three-year maximum timeframe. (GCBS 3, 33, R)**
- 72) Claims by veterans who may have been injured reporting to duty during an alert or recall should be considered to be on duty for pension purposes. (GCBS 3, 22, R)**
- 73) VAC needs to delegate approving authorities to the lowest possible level resulting in fewer decisions needing to be appealed to the next higher level. (GCBS 3, 32)
- 74) VRAB, through DND, should contact branch/occupational advisors from the CF for advice on those cases where veterans' claims are being made would benefit from the input from expert witnesses about the occurrence/frequency of service related conditions. (GCBS 2, 18, A)

6. Disability, Death and Detention Benefits

- 75) The Death and Survivors Benefits need to be better linked or related to each other in the NVC literature. (GCBS 1, 20, A)
- 76) The Detention Benefit starts at Day One not at Day Thirty. (GCBS 3, 31, and GCBS 1, 22, R)**

E. Health Benefits Program

- 77) While it is not expressly stated in the literature it should be emphasized that this is health care coverage requires a monthly premium to be paid by the member. (GCBS 1, 20, A)
- 78) VAC needs to investigate the premium costs being charged to veterans by the PSCHP and align those monthly premiums with other members of the public sector PSCHP plans. (GCBS 3, 26, A)
- 79) Special needs veterans be provided with a PSHCP premium waiver for all family members. (GCBS 2, 13 and GCBS 3, 29, A)
- 80) Special needs veterans be exempt from the co-share payment formula for all family members. (GCBS 2, 13 and GCBS 3, 29, A)
- 81) AC/CM need to better explain the benefits of PSHCP to veterans and their spouses (GCBS 3, 26, A)
- 82) VAC offer PDSP or a similar plan in the same way as the medical plan is being offered. This would provide for a more comprehensive health benefits package for the Veteran. (GCBS 1, 21, A)
- 83) VAC provide dental health care for veterans and their families through subscription to the Pensioners' Dental Services Plan, similar to how health care services are provided by PSHCP. (GCBS 3, 24, A)

F. Follow-up, Evaluation, Feedback and Research

- 84) VAC should establish an on-line feedback link on the website so Veterans can express their concerns, successes and failures with the NVC, with the results being forwarded to a contracted agency such as Corporate Research Associates for analysis. (GCBS 1, 24, A)
- 85) VAC needs to promote on its website and in its literature the existence of advisory groups such as the SNAG and solicit input via on-line feedback, e-mails, verbal and written issues. These would need to be distributed to the SNAG for consideration. (GCBS 1, 24-27, A)
- 86) Similar to an on-line feedback but more structured and made available in print would be a post-implementation survey. Results should be gathered by a contracted agency such as Corporate Research

- Associates for follow-up questions and analysis of the returns. (GCBS 1, 24-25 and GCBS 3, 33, A)
- 87) The use of a “Navigator” (as recommended by Muriel Westmoreland) would facilitate the veteran in working through and understanding all the documentation and application forms required by VAC. (GCBS 2, 20, A)
 - 88) VAC contract services to determine which programs benefits and services are providing the best services to the veteran, spouse and families. (GCBS 3, 27, A)
 - 89) VAC should coordinate a series of client surveys using a similar approach to the survey conducted by Corporate Research Associates. Only new clients should be surveyed. The first survey should be completed within 90 days of implementation to understand the immediate effects. For the purpose of this advisory group — Special Needs Veterans need to be interviewed. (GCBS 1, 21, A)
 - 90) VAC should respond to the numerous criticisms and recommendations from many focus groups and individuals and institute an Ombudsman, either alone or in cooperation with the existing Department of National Defence Ombudsman. (GCBS 1, 22, A)
 - 91) VAC contract for an independent assessment/review of the NVC as part of its centre of expertise or research based approach to the design of the programs, benefits and services that are being provided under the NVC. (GCBS 3, 27, A)
 - 92) VAC should institute a QAP and utilize a 3rd party contractor for monitoring and reporting the various programs within the NVC. This report should be available to the public. (GCBS 1, 22, A)
 - 93) The SNAG needs increased input from the special needs community, more interviews, surveys and presentations should be encouraged. (GCBS 1, 22, A)
 - 94) VAC request that Parliament and Senate Standing Committees on National Defence and Veterans Affairs conduct comprehensive reviews of the NVC. These reviews should be done as if Parliament and Senate were reviewing for the first time the contents of The Canadian Forces Members and Veterans Re-establishment and Compensation Act — Bill C-45. (GCBS 2, 18, A)

- 95) VAC commit to SNAG to provide opportunities to interview SN veterans as part of all SNAG regular meetings. (GCBS 3, 30, A)
- 96) That VAC use tools and measures that have been proven to be valid and reliable in assessing the performance and impact of its programs, such as:
- a. health assessment tools used before and after provision of services (i.e., health function, health-related quality of life);
 - b. the Canadian Occupational Performance Measure;
 - c. the International Classification of Function;
 - d. health economic measures;
 - e. satisfaction surveys of Veterans and families;
 - f. surveys of employers/workplaces that hire Veterans;
 - g. skills assessments of case managers and other VAC staff. (GCNCAC, 45, A)
- 97) That VAC engage in research to support the New Veterans Charter programs, including:
- a. a study to document the impact of the transition process from military culture to civilian society on Veterans and families, and factors that build resilience and lead to a successful transition;
 - b. following young Veterans over time to identify the sectors where they have made a successful transition to civilian life (e.g., retail, trades, manufacturing, service related, office/business);
 - c. a longitudinal cohort study on the impact of providing family supports, such as respite care and bereavement support, on the health of the Veteran and family;
 - d. a study on the impact of role changes within a Veteran family – that is, the Veteran being responsible for cooking meals and caring for the family at home while the spouse works – on Veteran and family health and their psycho-social adjustment to civilian life;
 - e. data on reservists and the impact of military service on both the reservists and their families;
 - f. a long-term assessment of the economic impact on families of living with an injured Veteran;
 - g. an assessment of the impact of providing economic support/compensation for family caregivers caring for disabled Veterans;
 - h. an assessment of the true economic impact on society of not taking care of our Veterans. (GCNCAC, 46, A)

RECOMMENDATIONS THAT ADDRESS SUPPORT FOR FAMILIES, NOT DIRECTLY RELATED TO THE NVC

- 98) VAC develop a Family Charter of Rights similar in nature to the Veterans Bill of Rights. (GCBS 3, 16 and GCNCAC, 23, A)

- 99) VAC investigate partnering with the CF for the co-use of MFRCs, thus providing a bridge for the Family during the member's transition from serving member to veteran. (GCBS 3, 16 and GCNCAC, 25, A)
- 100) VAC needs to develop programs, benefits and services designed specifically for the family. Keeping the family intact should be a cornerstone building block for VAC. SN veterans programs, benefits and services will become very costly if there is no spousal or family support (implying that all services would have to be contracted out). By providing family programs, benefits and services VAC would reduce the dissolution of some of the families as a result of a seriously injured veteran returning home. (GCBS 3, 17, A)
- 101) Educate all VAC staff and service providers about Veterans' and families' right to services. (GCNCAC, 23, A)
- 102) Launch a recognition program (e.g., Minister's Commendation) for spouses/partners. (GCNCAC, 23, A)
- 103) Fund post-secondary education for spouses and children of disabled Veterans. (GCNCAC, 26, R)**
- 104) Work with all Veterans organizations — including the Royal Canadian Legion, the Army, Navy and Air Force Veterans in Canada, the National Council of Veterans' Associations in Canada, the Canadian Association of Veterans in United Nations Peacekeeping, the Canadian Peacekeeping Veterans Association and the Gulf War Veterans Association of Canada — to raise public awareness about the contribution of Veteran families. Involving Veterans' organizations will also provide opportunities for new Veterans to have some contact with and support from older Veterans who have already lived through the consequences of active services. (GCNCAC, 23, A)
- 105) Marital support mechanisms need to be instituted to protect the integrity of the family, such as family and marital counselling. (GCBS 2, 21 and GCBS 3, 18, A)
- 106) Case management plans must include the spouse and family. If the case management plan requires treatment for family members, VAC must consider providing that within the overall case plan. If the spouse is not the principal caregiver, then that caregiver must also be involved in any case management plan development. (GCBS 3, 16, GCBS 3, 17 and GCBS 4, 7, A)

- 107) VAC engage a 3rd party to produce a Family Needs Analysis for SN veterans and their families, or update the current Family Needs Analysis that was produced a number of years ago. (GCBS 3, 14, A)
- 108) VAC must clearly provide documentation and support to families with regards to babysitting services or child care subsidies for daycare to assist the Veterans' families, especially when the caregiver is required to provide constant care for the SN veteran. (GCBS 3, 15, A)
- 109) Develop training programs for family members to give them the skills and confidence they need to provide care that meets the Veteran's needs. (GCNAC, 28 and GCBS 3, 18, A)
- 110) Consider providing spouses, caregivers and significant others including parents (in the case of single soldiers) with their own unique VAC number — perhaps an "F" number reflecting family values in the NVC. This way VAC can establish treatment plans, case management plans, conduct follow-up concerning family matters. (GCBS 3, 20, A)
- 111) Consider establishing a type of employee assistance plan (EAP) for the use by spouses, children and families. This would reduce the burden on AC/CM in dealing with issues not necessarily related to the veteran and it would provide very timely, if not immediate service to the family. This type of EAP contract service is very common in large successful organizations. VAC would do well by considering this. (GCBS 3, 21, A)
- 112) If the response is "no" to having a Will VAC should facilitate the veteran and/or family in securing a Will, through the provision of recommending an appropriate agency to prepare a Will. This is particularly important for SN veterans who may need power of attorneys or assign an executor for the estate to prevent the estate from being contested or in probate putting the survivors at risk. (GCBS 3, 34, A)
- 113) VAC develop a legal will package for all veterans to fill out akin to the CF last Will/NOK identifier. (GCBS 3, 34, A)

RECOMMENDATIONS THAT ADDRESS HEALTH CARE UNDER THE *VETERANS HEALTH CARE REGULATIONS*

- 114) Caregiver or attendance allowance needs to be reinstated under the NVC or support for respite costs need to be contained in the**

- programs, benefits and services. Furthermore, the family dynamic has changed since the Traditional Veteran era, many spouses have careers of their own and may not be willing or able to (financially) leave those careers to provide caregiver services to their SN veteran — remuneration needs to be strongly considered. (GCBS 3, 16, GCBS 4, 8 and GCNCAC, 28, R)**
- 115) **VAC allows the principal caregiver/spouse to be the escort when one is required, and change the regulations and policy accordingly. (GCBS 3, 16 and GCBS 2, 13, R)**
- 116) VAC should increase the amount that Veterans and families can claim to cover travel expenses including gas, meals, travel expenses for an escort for those who cannot drive due to their OSI, and overnight accommodation when required to stay in the city for medical appointments. (GCNCAC, 42, A)
- 117) It is recommended that for SN veterans the process for extension of massage, physiotherapy and chiropractic services be streamlined to eliminate delays in the continuation of provision of services allowing for a greater success in treatment outcomes. For SN veterans three options could be considered:
- a. Request a treatment plan from the service provider and approve the recommended plan and not limit it to simply 10 sessions forcing a reapplication or cessation of services.
 - b. Increase the basic limits from 10 sessions to 25 sessions to eliminate the constant need to reapply or concern that treatments maybe interrupted.
 - c. Implement a process in which the service provider can request an extension of service simply by calling the Treatment Authorization Centres (TAC). (GCBS 3, 11, A)
- 118) VAC to utilize its own resources to provide “bridge coverage” until the Veteran has secured his/her own family physician. (GCBS 1, 21, GCBS 1, 13 and GCBS 3, 23, A)
- 119) VAC needs to offer caregiver services in the event that the spouse and/or family chose not to or cannot provide these services themselves. (GCBS 3, 16, A)
- 120) VAC should offer as a part of the case management service all medical referrals, rather than have the Veteran make appointments and then wait for a referral. VAC could establish minimum wait times for services and contract where necessary the required medical services. (GCBS 1, 21 and GCBS 2, 13, A)

- 121) Consider VAC/CF Collaboration in the provision of health services. In locations where the CF Health Services have clinics provisions need to be made for VAC clients and their families to have access to those health services. Provision of this health care would be covered under Blue Cross. (GCBS 3, 23)
- 122) VAC establishes mobile clinics specifically designed to reaching out to SN clients on a regular scheduled basis and providing support at the clients' residence as part of active case management. (GCBS 3, 21, A)
- 123) VAC and the CF jointly manage the OTSSC and OSI clinics to enable a successful hand-off from the serving member at the OTSSC to the veteran at the OSI clinic particularly when it comes to case plan management for both the veteran and their family. (GCBS 3, 21, A)
- 124) OSI clinics, based upon demand, are accessible in the evenings and on weekends for those that cannot make it during normal hours. (GCBS 3, 21, A)
- 125) It is recommended that an additional Program of Choice (POC) category be added to the Veteran Card, "Box 15" entitled Socio/Psycho Services. This POC should have expanded limits of treatments for the majority of services that PTSD veterans require, including not only increased limits for the veteran but also for the caregiver and family members, if needed and referred by a physician. In addition, Box 15 would include the ability to prescribe medications that may be in excess of the Pharmacy TAC and treatments such as massage therapy in excess of the Massage Therapy TAC. (GCBS 3, 25, A)
- 126) Give Veterans and families ongoing access to mental health and addiction services, including counseling and mental health services for children. (GCNCAC, 25, A)
- 127) VAC develops, similar to OSI peer support network, a physical injury peer support network. This physical injury peer support network initially would be for SN complex case veterans and their families. This network would be complimentary to whatever information is being provided by VAC, but just like the OSI peer support network it would be peer to peer. (GCBS 3, 12, A)
- 128) Explore innovative strategies to help meet the primary care needs of Veterans and their families, including contracting with family doctors to accept Veterans into their practice, and paying to train and employ

- other professionals, such as nurse practitioners and physician assistants, to provide care. (GCNCAC, 26, A)
- 129) Work with colleges and universities to ensure that the impacts of military service, operational stress injury and other service related health needs become part of professional health education programs. (GCNCAC, 27, A)
 - 130) Ensure Veterans and families continue to have access to health benefits, including dental care and prescriptions. (GCNCAC, 27, A)
 - 131) Expand the list of health professionals whose services VAC will cover to include acupuncturists, naturopaths and others whose skills may help clients receive holistic care or manage pain. (GCNCAC, 27, A)
 - 132) Educate caregivers about the types of services that VAC will provide and encourage them to access these services for the Veteran and for themselves. (GCNCAC, 28)
 - 133) Provide more respite care services — perhaps by decommissioning some of the beds currently on VAC’s list of funded beds. (GCNCAC, 28, A)
 - 134) Both DND and VAC recognize the importance of bereavement services, and develop programs to cover the cost of professional bereavement support services. (GCNCAC, 29, A)
 - 135) Medical specialists have direct access to their specific VAC TAC for immediate approval of the recommended therapy based upon their professional diagnosis/opinion. With respect to drug therapies for example, the medical specialist would be able to contact the VAC TAC Pharmacology directly for approval; this immediate access would benefit the veteran in that waiting for specific drug approvals would be eliminated. (GCBS 2, 11, A)
 - 136) VAC POC TAC and AC apply the “benefit of doubt” when veterans are making applications. Reasons for denial should be clearly stated and if a medical authority has rendered the decision the name of the medical authority and their qualifications to render a decision should be clearly stated. (GCBS 3, 32, A)
 - 137) Special needs veterans’ Blue Cross coverage through the TAC, principally for prescription drugs, needs to be re-evaluated. If there is an issue of a prescribed drug not being on the Blue Cross/VAC

formulary the recommended procedure could be for co-sharing the costs, where the special needs veteran would pay a percentage of the cost. (GCBS 2, 11-12, A)

- 138) The VAC Drug Formulary for example should be a blend of all the Provincial Drug Formularies in order to provide a high level of service across the country with no regional discrepancies. This initiative should also be implemented for all the VAC TAC Programs of Choice. (GCBS 2, 12, A)
- 139) The issue with VAC TACs services could be systemic in nature and not necessarily functioning in the best interest of the veteran. Therefore, an independent study to examine VAC TAC processes and procedures would be beneficial in ensuring maximum efficiencies and services are implemented to best meet the needs of the veteran and the supporting medical specialists. (GCBS 2, 12, A)

A. Veterans Independence Program

- 140) Housekeeping services, if warranted, should be automatically approved for SN veterans in recognition and acknowledgement that the spouses of SN veterans are in most cases also the principal caregivers and housekeeping services provide a small modicum of respite. (GCBS 3, 25, A)
- 141) VIP benefits should only be reduced upon recommendation from an appropriate medical authority indicating the medical condition of the client is such that VIP benefits are no longer required. (GCBS 3, 26, A)
- 142) VAC must ensure that there is national consistency for VIP benefits being allocated. (GCBS 3, 26, A)
- 143) VAC Area Counsellors must not base decisions for the approval or denial of VIP benefits based upon the age or marital disposition of a veteran, but on the nature of the disabilities. (GCBS 3, 26, A)
- 144) Provide Veterans Independence Program (VIP) benefits — such as housekeeping and ground maintenance — to ALL Veterans and Families. (GCNCAC, 28)
- 145) Tailor VIP benefits (e.g., child care services) to meet the needs of younger Veterans and survivors. (GCNCAC, 28)

- 146) Extend VIP services to surviving spouses and families for one year automatically. (GCNCAC, 29)
- 147) Tailor VIP benefits to meet the needs of surviving spouses and families (e.g., child care). (GCNCAC, 29)

RECOMMENDATIONS THAT ADDRESS VAC'S ADMINISTRATIVE PROCESS IN GENERAL

A. CF and VAC Evaluations and Transition

- 148) VAC, in partnership with the CF's Health Services and DCSA, develop a medical releasing unit that has designated VAC and CF medical officers, Pension Officers, CF Case Managers, DCSA staff and VAC Transition Area Counsellors working as a multi disciplinary-interdepartmental proactive cell to ensure that medical releasing members are properly prepared for release. (GCBS 3, 20, GCBS 1, 10 and GCBS 2, 21, A)
- 149) Appropriate standardized assessment tool should be utilized at all Centres to ensure continuity of service. Attached at Annex D, Appendix 2 is a Transition Assessment Tool Proposal. (GCBS 1, 9, A)
- 150) VAC needs to review the Transition Interview/Needs Assessment using current accepted processes from accredited institutions. (GCBS 1, 9, A)
- 151) VAC staff monitor releases, especially high level of disability releases and ensure the veteran/client or their family/care giver makes the requisite application for benefits within the prescribed timeframe. (GCBS 1, 12, GCBS 1, 20, GCBS 2, 21 and GCNCAC, 41, A)
- 152) VAC, in cooperation with the CF Releasing authorities, must make every attempt to ensure that the veteran's file is complete, especially medical and dental files at the time of release. If there is any doubt as to injury during service that has not been properly documented it would be noted at the time of release rather than at the time of the Veteran making an application. (GCBS 1, 19, GCBS 1, 10 and GCBS 1, 26, A)
- 153) VAC negotiate better support from the CF in supporting releasing members in their successful transition with the completion of requisite medical forms. (GCBS 3, 20, A)

- 154) VAC Case Managers need to identify to the veteran the role of the VAC Case Manager as there may be misunderstandings between the role the CF Case Manager when compared to the VAC Case Manager and the veteran needs to understand the differences. (GCBS 2, 17, A)
- 155) A VAC Pension Officer should be employed at every CF Base. DND Case Managers could thus direct releasing CF members to the Pension Officer to initiate the application process. (GCBS 2, 18, A)
- 156) Determination of a rehabilitation need and associated services that form part of case management protocols and the case plan should be ascertained as soon as possible, particularly for medically releasing members. Applications for the provision of programs, benefits and services need to be submitted and approved *prior to release* in order to be implemented immediately upon the effective release date to ensure a seamless transition without delays in the provision of programs, benefits and services offered by VAC. (GCBS 2, 17, A)

1. Communicating With Veterans

- 157) All applications/claims made by veterans should be considered approved and not discounted out of hand. If it is found that false statements were made, then VAC can proceed with recovery of the over payment and legal action if necessary. All veterans whose files may be incomplete should be allowed to complete a Statutory Declaration declaring that the facts they are presenting are indeed factual. (GCBS 1, 24 and GCBS 1, 21, A)
- 158) VAC needs to develop an effective communications plan for all veterans, explaining the role of VAC staff, including Area Counsellors/Case Managers, Client Service Agents (CSA) and the Call Centre. (GCBS 1, 10, A)
- 159) In the case of a personality conflict between the veteran and the VAC Case Manager the ability to request a change. (GCBS 2, 20, A)
- 160) Special needs veterans, especially those in receipt of the PIA must receive, at minimum, a semi-annual home visitation by their VAC Case Manager to ascertain standard of living and quality of life levels, and if the veteran is in receipt of the appropriate programs, benefits and services. (GCBS 2, 16, A)

- 161) Develop a standardized checklist identifying programs, benefits and services, personalized for the releasing member to which he/she may be entitled to upon release. This checklist would be provided to the member and/or their next of kin at the Transition Interview/Case Plan. (GCBS 2, 14, A)
- 162) VAC needs to develop Case Management Standards as part of a Quality Assurance plan that allows for operational transparency and accountability. (GCBS 1, 10, A)
- 163) To ensure continuity of front line services, VAC needs to develop a system for the District Offices that allows for a Duty Area Counsellor who will be available to all CF Veterans currently in rehabilitative programs. The Duty Area Counsellors will have the authority to instantaneously approve treatment request related to the CF veterans' pensioned condition. It is recommended that the Duty Area Counsellor is a permanent position whose job is to act as a back-up worker while Area Counsellors are meeting with their respected veteran clients and are not readily available. (GCBS 1, 10, A)
- 164) Area Counsellors will need to have regular contact with the CF veterans who are actively engaged in the rehabilitative programs. (GCBS 1, 11, A)
- 165) VAC needs to develop a plan outlining departmental communications standards and communicate this plan to all Veterans. (GCBS 1, 11, A)
- 166) As part of the Case Management and Communication Standards, VAC needs to clearly outline realistic expectations as to what is available to veterans and the timeframes on how long access/approval for said programs would take. (GCBS 1, 11, A)
- 167) When a SN veteran calls the NCCN for an inquiry, due the complex nature of many SN Veterans, the call should be forwarded to the veteran's AC to make a decision in consultation with the case plan and the veteran. (GCBS 3, 27, A)
- 168) When Veterans are labelled as difficult, VAC needs to implement a critical or complex case management plan/tool that utilizes highly specialized, properly trained area counsellors to work on a case plan to lead to as best an outcome as possible. (GCBS 3, 12, A)
- 169) If required, critical care management of difficult cases should be contracted out to a third party to remove the VAC/Veteran interfaces

- with a view to achieving a more successful outcome/rehabilitation. (GCBS 3, 12, A)
- 170) VAC needs to ensure that approved treatment regimes involving sequential treatment programs are not compromised by preventable undue delays involving intra-departmental communications. The Case Manager must manage the scheduling of treatment plans on behalf of the veteran, the associated specialists and intra-departmental programs. (GCBS 2, 19, A)
 - 171) VAC Area Counsellors need to provide their clients with their direct contact number. Veterans actively engaged in any rehabilitative programs should not have to contact their Area Counsellors/Case Managers via NFCC. (GCBS 1, 12, A)
 - 172) VAC develop e-mail correspondence protocols in order to disseminate blanket information to all veterans (example; advise clients of policy changes to VIP). (GCBS 3, 28, A)
 - 173) VAC makes its requests for information, application forms and other documentation accessible on the Internet and available for download utilizing secure network services. (GCBS 3, 28, A)
 - 174) The VAC website needs to be kept current and informative about all aspects of the NVC with a tie back or linkage to the existing *Pension Act*. (GCBS 1, 24, A)
 - 175) Case Scenarios need to be listed more clearly on the website and in the NVC literature, and they must include more applicable and relevant cases, including an emphasis on case scenarios at the private and corporal levels. (GCBS 1, 24, A)
 - 176) VAC must ensure the physical environments at all District Offices are conducive to individual respect rather than confrontational approach. (GCBS 1, 12, A)
 - 177) VAC establishes after-hours (evening and weekends) hours of operation to accommodate veterans and their families' unique situations. Moreover, by offering after-hour services, this approach would tie into the "client-centre philosophy of VAC, where the focus will be on the veterans and their families rather than on VAC hours of operation. (GCBS 3, 31, A)

- 178) Veterans who request to retain their current AC/CM when relocating should be allowed to do so. (GCBS 3, 32, A)
- 179) VAC should consider amending its allocation of AC by postal codes to something less rigid, especially within large urban areas. (GCBS 3, 33, A)

2. VAC Human Resources

- 180) VAC should consider a position at all District Offices that allows for a Duty Area Counsellor/Case Manager to be available 24/7. (GCBS 1, 12, A)
- 181) VAC staff be trained in non-physical crisis intervention. (GCBS 1, 12, A)
- 182) VAC should instruct case managers to be flexible and treat recommended limits on rehabilitation services as guidelines only, and empower them to make decisions based on client need and well-being. (GCNCAC, 42, A)
- 183) Increase the number of Area Counsellors at the District Office level and decrease individual caseloads. (GCBS 1, 10 and GCBS 2, 18, A)
- 184) Adopting a risked-based approach to resource allocation, VAC conduct internal reviews of frontline services at the District Offices in order to ascertain if resources for services are needed or if better allocation of resources are required. (GCBS 2, 17, A)
- 185) Ensure case managers have the ongoing training, case-specific mentoring, and authority to make decisions about services and supports that will help the Veteran achieve goals and maximize outcomes. (GCNCAC, 40, A)
- 186) Ensure all members of VAC client services teams have a comprehensive understanding of military culture required to help Veterans make the transition to civilian life and return to work. (GCNCAC, 40, A)
- 187) Ensure staff are well trained and understand the individual, plan-based, needs-based nature of the program as well as the range of options available for Veterans and families — including social rehabilitation when that is an appropriate goal (i.e., Veterans should

receive the necessary amount and range of services and support to achieve their goals). (GCNCAC, 38, A)

3. Relationships Between VAC and Service Providers

- 188) District Offices develop approved lists of local service providers, preferably ones that do direct billing to VAC, so that the AC/CM can use or recommend and provide this list to the veteran, spouse and/or caregiver. (GCBS 3, 13-14 and GCBS 2, 12, A)
- 189) Identify client navigators — including peers — who will help special needs Veterans and families navigate the system of services and negotiate with service providers. (GCNCAC, 40, A)
- 190) Instead of clients being asked to get two quotes especially when there are approved lists that VAC contract these services directly on behalf of the SN client. (GCBS 3, 14, A)
- 191) Review its list of providers and the corresponding provincial fee guidelines and update its payment schedule annually. (GCNCAC, 43, A)
- 192) With DND, review their policies for referring releasing members, and ensure providers are paid for their work in a timely manner. (GCNCAC, 43, A)
- 193) Respect the professional skills of its providers and develop rehabilitation plans based on the providers' clinical judgment. (GCNCAC, 43, A)
- 194) Set clear standards to accredit VAC services and providers, or assess the potential to have the program accredited by an organization such as Accreditation Canada. (GCNCAC, 38, A)
- 195) Develop a training program for all service providers and return-to-work partners to ensure that service providers and potential employers are aware of:
 - a. the impact of military service on Veterans and their families;
 - b. operational stress injuries and mental health stressors associated with life in the Canadian Forces;
 - c. evidence-based therapies and interventions for OSI and other mental health problems. (GCNCAC, 27, A)

4. File Management

- 196) Tombstone data should only be collected once, held on file and auto-populate all applicable sections on VAC application forms as required. (GCBS 3, 28, A)
- 197) Medical and dental information collected by VAC for verification and establishment of claims needs to be held electronically on file and be accessible by the veteran and VAC staff as required. (GCBS 3, 28, A)
- 198) AC/CM when doing visits with clients should bring the client's electronic file with them (laptop/blackberry) for instant updating or accessing for validation of information. (GCBS 3, 29, A)
- 199) Veterans have access to files retained on the NCCN to ensure information is correct. (GCBS 3, 29, A)
- 200) Remove intimidation and inherent level of mistrust by adjusting the font size to normal. (GCBS 3, 29, A)
- 201) VAC institutes a similar process as the CF for having a NOK form and that form includes "next best friend" or "trusted friend" categories. (GCBS 3, 30, A)
- 202) VAC and the CF blend the existing NOK form for use by both organizations, therefore a change in the NOK will update existing CF databases and provide VAC with the most current information provided by the serving soldier (potential veteran). (GCBS 3, 30, A)

APPENDIX F: FRAMEWORK RECOMMENDATIONS FROM THE VETERANS CHARTER ADVISORY GROUP (NOVEMBER 2009)

Strengthen Family Support Services

1. Take steps to create and maintain a respectful, family-centred culture in all VAC programs
2. Fill service gaps to ease the transition to civilian life
3. Improve access to skilled, knowledgeable health care providers
4. Provide more support for family members caring for Veterans
5. Provide more support for survivors and families of the Fallen.

Ensure Financial Security

6. End the legacy of the insurance-based approach to economic benefits
7. Ensure disabled Veterans receive a fair, equitable income consistent with a normal military career
8. Increase access to the Permanent Impairment Allowance
9. Ensure non-economic loss awards are comparable to those offered in civil society

Raise the Bar for Rehabilitation Services and Outcomes

10. Modernize the rehabilitation program
11. Improve case management services
12. Improve access to VAC rehabilitation services
13. Repair Damaged Relationships with Providers

Actively Promote New Veterans Charter Programs and Services

14. *Establish Performance Measures, Gather Data and Assess Impact*
15. Monitor programs and services
16. Invest in research

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([40th Parliament, 2nd Session: Meetings Nos. 27, 30, 34, 35, 36, 37 and 38](#)) and a copy of the relevant Minutes of Proceedings ([40th Parliament, 3rd Session: Meetings Nos. 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19](#)) is tabled.

Respectfully submitted,

David Sweet, MP

Chair

Bloc Québécois Supplementary Opinion

We would like to begin by thanking all the witnesses who testified as part of the study of the New Veterans Charter.

The Bloc Québécois has always believed that we have a collective responsibility toward Canada's veterans. These men and women put themselves at great risk in the service of their country. It is our duty to see to their well-being once that service has ended.

We therefore support most of the report's recommendations. However, the Bloc Québécois has reservations about recommendation 15.

When the New Veterans Charter was passed in 2006, the monthly lifetime pension for injured service personnel was replaced by a single lump sum payment. However, this method of payment is inadequate and ill suited to the needs of injured military members.

Several witnesses told the Committee that replacing the monthly pension with a lump sum was a bad decision, and they took the opportunity to ask Committee members to recommend a return to monthly benefits.

Like the witnesses, the Bloc Québécois believes that the concept of a lump sum payment is flawed and we ask for the lifetime monthly pension to be restored.

Firstly, the Canadian government has a collective responsibility toward veterans. If they become disabled, the government must see to their physical, psychological and financial well-being. We strongly doubt that a lump sum payment can ensure the same long-term stability as a monthly lifetime pension.

Recommendation 15 proposes a combination of lump sum payments, annuities and structured settlements. While this is a step in the right direction, we believe that it is still only a half measure and will not offer the long-term stability of monthly lifetime benefits.

Secondly, we believe that the proposed solution does not take into account the psychological state of disabled service personnel or veterans. They can find themselves in a state of distress and vulnerability, and the Bloc Québécois wishes to state clearly that it feels empathy and compassion for them. Witnesses told us of the harsh reality that military personnel and veterans face, sometimes succumbing to deep depression or addiction to drugs, alcohol, sex or gambling. Given this situation, we have a legitimate right to question their judgement and ability to manage a lump sum payment. Are we doing them a service if we give them this money without thinking about their future?

In conclusion, the Bloc Québécois still believes that the best option is to give disabled military members and veterans a lifetime monthly pension.