



# Cabinet Legislation Committee

## Minute of Decision

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### Petition 2014/51 of Gary William Roberts

**Portfolio**                      **Police, Defence**

On 20 August 2019, the Cabinet Legislation Committee:

- 1        **noted** that the Transport and Industrial Relations Committee (the Committee) presented its report to the House entitled Petition 2015/51 of Gary William Roberts on 21 March 2017;
- 2        **noted** that the Committee did not recommend changes to the Veterans' Support Act 2014 nor to the Accident Compensation Act 2001 because although these Acts fail to provide for Mr Roberts, they generally operate well;
- 3        **noted** that the Committee recommends that the Ministers of Police and Defence consider extending support for managing Post Traumatic Stress Disorder to former personnel who experience Post Traumatic Stress Disorder as a result of their service with those organisations, and give particular attention to those former service personnel who are not covered by the Accident Compensation Act 2001;
- 4        **noted** the support, included in the Government Response, provided to former members of the Armed Forces and Police employees in particular those employees who are neither veterans or who are otherwise ineligible to received benefits from the ACC or Veterans Support Acts;
- 5        **noted** that the Veterans' Advisory Board has provided the Minister for Veterans with an interim report on the matter of who should be defined as a veteran, with a proposed response to be progressed to Cabinet in due course;
- 6        **approved** the Government Response to the Report of the Transport and Industrial Relations Committee entitled Petition 2014/51 of Gary William Roberts, attached to the submission under LEG-19-SUB-0114;
- 7        **noted** that the Government Response should have been presented to the House by 19 June 2017 but because of an administrative error was overlooked and should therefore be presented as soon as practicable;
- 8        **invited** the Minister of Police and the Minister of Defence to present the Government Response to the House in accordance with Standing Order 252;

- 9 **invited** the Minister of Police and Minister of to write to the petitioner enclosing a copy of the Government Response to the report of the Transport and Industrial Relations Select Committee on the petition after the Response has been presented to the House.

Vivien Meek  
Committee Secretary

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**Present:**

Hon Andrew Little  
Hon Stuart Nash  
Hon Iain Lees-Galloway (Chair)  
Hon Jenny Salesa  
Hon Damien O'Connor  
Hon Ron Mark  
Hon Tracey Martin  
Hon Julie Anne Genter  
Michael Wood MP (Senior Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

**Hard-copy distribution:**

Minister of Police  
Minister of Defence

Proactively Released by the Minister of Defence

Chair, Cabinet Legislation Committee

## **GOVERNMENT RESPONSE TO SELECT COMMITTEE REPORT OF PETITION 2014/51 OF GARY WILLIAM ROBERTS**

### **Proposal**

1. This paper seeks approval of the Government's response to the Transport and Industrial Relations Committee's report on its investigation into Petition 2014/51 from Mr Gary William Roberts referred to the Committee on 10 March 2016.

### **Background**

2. The petitioner requested amendments to the Accident Compensation Corporation Act 2001 relating to the definition of work-related personal injury in regards to psychological harm, to stop discrimination against defence personnel who may have been diagnosed with conditions such as post-traumatic stress disorder (PTSD) after 1974 but before 2008 (who are not covered by the Veterans' Support Act 2014 or the Accident Compensation Act 2001).
3. The petitioner enlisted in the military in 1978 and served eight and a half years. He did not serve overseas. He served a further 10 years in the New Zealand Police. He suffers from post-traumatic stress disorder because of events he witnessed. Under the Veterans' Support Act 2014, veterans are eligible for entitlements, services and support if, after 1 April 1974, they took part in a recognised operational deployment. As Mr Roberts enlisted in the New Zealand Defence Force after 1974 and did not meet the qualifying operational service requirements, he is not covered by this Act.
4. Section 21B of the Accident Compensation Act 2001 which came into effect on 1 October 2008, provides cover for work-related mental injury. This provision is not retrospective and only applies to a mental injury suffered on or after 1 October 2008. Mr Roberts was first diagnosed with PTSD before 2008 so he is not covered by section 21B.
5. Mr Roberts is not currently a member of the New Zealand Defence Force nor a member of the New Zealand Police, so he cannot 'by right' access the support these organisations provide to their current employees.

### **The Select Committee Findings**

6. Written evidence to the Transport and Industrial Relations Select Committee was tendered by Veterans' Affairs New Zealand, (as the pertinent business unit agency of the New Zealand Defence Force), the New Zealand Police and the Accident Compensation Corporation.

7. The Committee found that, for the reasons set out above, Mr Robert's particular circumstances mean that he is not eligible under either the ACC or Veteran Support legislation for support for the PTSD he experiences. The Select Committee did not recommend amendments to the Veterans' Support Act 2014 or the Accident Compensation Act 2001 because, in the Select Committee's findings, these Acts generally operate well.
8. Instead the Committee recommended that the Ministers of Defence and Police consider extending support for managing PTSD to former personnel who experience PTSD as a result of their service with these organisations and give particular attention to those former service people who are not covered by the Accident Compensation Act 2001.

## **Current situation**

### *The nature of post-traumatic stress disorder*

9. Post-Traumatic Stress Disorder (PTSD) is one of four forms of mental injury that is recognised in the New Zealand Defence Force and New Zealand Police under the general title of Service Induced Mental Injury (SIMI). These are minor Traumatic Brain Injury (mTBI), Adjustment Disorder, Moral Injury, and PTSD.
10. PTSD and mTBI are permanent injuries which may be managed, while Adjustment Disorders and Moral Injuries may be cured with appropriate intervention. It is unusual in a military or police population to see single diagnosis mental injury cases. Most cases will have a combination of diagnoses such as mTBI with PTSD for example. When left untreated for a long time most mental injury presentations have a final common pathway which look similar in all cases, which makes diagnosis difficult.
11. Within the New Zealand Defence Force there have been 82 diagnosed cases of PTSD up to 2017 of which 25 were related to operational service and covered by the Veterans Support Act 2014. The remaining 57 cases were related to nonoperational service related incidents; for example military training accidents, domestic traumatic events and vehicle accidents.
12. Within the New Zealand Police officially diagnosed/accepted cases of PTSD are very low in the context of the Police work environment and overall injury claims, with 22 claims being accepted since 1 January 2015. This is, however, likely to be an under reporting, as many exposed individuals are concerned about the impact of having a mental health diagnosis on their employability.
13. All cases of service (New Zealand Defence Force and New Zealand Police) related PTSD diagnosed after 1 October 2008 have ACC cover where this arises from:
  - a. an event that is sudden; or
  - b. a direct outcome of a sudden event; and

- c. includes a series of events that—
    - (i) arise from the same cause or circumstance; and
    - (ii) together comprise a single incident or occasion; but
  - d. does not include a gradual process.
14. It is therefore possible that mental injuries which do not arise out of an identified event or series of events are not covered.
  15. Since 1 October 2008, there are significantly more mental injury cases in total diagnosed in the record, most of which would not be covered by ACC (ACC does not recognise moral injury and the threshold for adjustment disorders is high). The number of non-formally diagnosed cases which have indirect indicators (social, alcohol, violence, behavioural, etc) is high.
  16. There are more mTBI, Moral Injury and Adjustment Disorder cases than PTSD, which is consistent with the experience of other western nations. On average the cases of diagnosed SIMI in the New Zealand Defence Force and New Zealand Police have approximately \$50,000 in direct and indirect costs (treatment and lost work), not including any VANZ/NZ Police benefits which may accrue. Lost work is generally low in cases which have early intervention, while late presentations typically have long term support requirements. This cost would be similar for those personnel who have left the New Zealand Defence Force and New Zealand Police with a SIMI.

### **Comment on the Select Committee Findings and Recommendations**

17. The petitioner identifies an issue that is not contested by the Accident Compensation Corporation, New Zealand Police or the New Zealand Defence Force. The Committee has asked the Police and the New Zealand Defence Force to consider extending support to these veterans, with particular attention to former service people who are not covered by the Accident Compensation Corporation.
18. While neither New Zealand Defence Force nor the New Zealand Police are specifically appropriated to incur expenditure on behalf of former members under the current legislation, both agencies have delivered support unofficially on a case by case basis for some years.
19. The extent that this is happening is described below.

### **Support Available to Former New Zealand Defence Force Veterans**

20. A New Zealand Defence Force veteran who has suffered an injury, illness, or condition and who has eligible operational service may apply for entitlements, services and support provided under the Veterans' Support Act 2014. If the condition applied for by the veteran is accepted as service-related, the

veteran may be entitled to receive the following entitlements, services, or supports involving their service related impairment:

- Treatment. Based on recommendations from a specialist medical or health practitioner and is needs based tailored for the individual;
- Rehabilitation;
- Prescription costs;
- Aids and/or appliances to enable independence and rehabilitation;
- Financial assistance with travel to treatment and rehabilitation;
- Service and supports provided under the Veterans' Independence Programme; and
- Impairment compensation.

- 21.** Following the 2018 independent review of the operation of the Veterans' Support Act 2014<sup>1</sup> by Professor Ron Paterson, the Veterans' Advisory Board is considering the matter of who should be defined as a veteran, which was raised in Professor Paterson's report. The report discussed the issues around eligibility, with the report noting that the cumulative effect of military service could result in a number of adverse effects, but under the current definition only those related to qualifying operational service entitled the member to the support offered to veterans. The Board has provided an interim report to the Minister for Veterans, who is currently considering their recommendations, and a Cabinet paper that proposes a response to the report will be progressed in due course.
- 22.** The New Zealand Defence Force is also working to improve the process of service personnel transitioning out of the Service. These improvements include a transition seminar open to all service personnel and the compilation of a Transition booklet, in the process of being completed, with advice on a wide range of issues effecting those service members leaving the New Zealand Defence Force.
- 23.** In order to improve the access to health advice for all Service and Ex-Service personnel the New Zealand Defence Force recently launched the Defence Health Internet website which is designed to inform our service members and ex members on <http://health.nzdf.mil.nz>. This initiative has some specific advice on how and where to get mental health advice and support. This site is open to any member of the public.

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<sup>1</sup> 'Warrant of Fitness, An Independent Review of the Veterans' Support Act 2014', Professor Ron Patterson, March 2018

### **Support Available to Former New Zealand Defence Force Person who are not a veteran**

24. Legislation limits the support that the New Zealand Defence Force can offer non-serving personnel who are not supported by other agencies. These personnel must rely on the New Zealand Public Health System in order to access services. Where possible, however, the New Zealand Defence Force health services have recently worked to support the community and public health system providers where cases of need are brought to their attention.
25. An example of this support provided was a former New Zealand Defence Force and New Zealand Police Service member who was not a veteran but required mental health care came to the attention of Veterans' Affairs New Zealand. Veterans' Affairs New Zealand advised New Zealand Defence Force Health Services and a Military Doctor went and saw the individual and aided that person to access the right mental health services in the Public Health System.
26. Access to the Transition Assistance and the New Zealand Defence Force Health Website on the Internet is available to these members in the same manner as New Zealand Defence Force veterans.

### **Support Available to New Zealand Police Former Employees**

27. Support for former Police employees is available through the Police Welfare Fund, administered by the Police Association. While the fund is primarily available to members who are serving employees, there is within it a special fund for former employees. Referrals generally come from Police Association representatives/field officers, and/or Police welfare officers, and are considered on a case-by-case basis. The Welfare fund assists more than 350 members per year and since 2000 this number has been steadily increasing.
28. In November 2017 Police and the New Zealand Police Association launched a mobile application using a system developed and adopted by Australian emergency services earlier in the year. Called "equipt" this application is available to current employees and their families, and to all former Police employees.
29. The application is a health and wellbeing self-help tool, which enables users to monitor their mental and physical wellbeing, offering them effective tools/processes within the application to help them maintain their health.
30. There is also a self-rating system that can be used as often as needed, and if it hits a critical number automatically provides the person with links to support services e.g. Police Association help line; Police welfare officers, Depression NZ, etc.
31. Police offer psychological support to former employees on a case-by-case basis. Examples include:

- Agreements reached as a result of employment settlements;
- People who have been in a course of treatment e.g. psychologist sessions, at the time of their departure, and we can continue that treatment for an agreed period;
- Recently departed personnel have approached for a variety of health related issues with a history and caused through work, may also be eligible for assistance; and
- Police continue to support a small group of former employees involved in special operations circa 30 years ago.

32. In addition, informal support networks exist outside of Police. An example is the social network site Facebook which has a closed forum for serving and former Police employees. With several thousand members, this forum offers various forms of support on and off line, and since its inception has seen referrals for Police welfare services for a number of members.

#### **Timing of the Government Response**

33. Notification of the timing of this response was received by the New Zealand Defence Force and New Zealand Police in November 2017.

#### **Consultation**

34. The Accident Compensation Corporation were consulted in the drafting of this paper.

#### **Financial Implications**

35. There are no financial implications associated with this paper.

#### **Human Rights**

36. This paper is consistent with the Human Rights Act 1993.

#### **Legislative Implications**

37. There are no legislative changes required by this paper.

#### **Regulatory Impact Analysis**

38. There is no Regulatory Impact caused by this paper.

#### **Publicity**

39. No publicity is planned.

#### **Recommendations**



40. The Minister of Defence and the Minister of Police recommends that the Cabinet Legislation Committee:
- a. **Note** that the Transport and Industrial Relations Committee presented their report to the House entitled 'Petition 2015/51 of Gary William Roberts' on 21 March 2017;
  - b. **Note** that the Select Committee did not recommend changes to the Veterans' Support Act 2014 nor to the Accident Compensation Act 2001 because although these Acts fail to provide for Mr Roberts, they generally operate well;
  - c. **Note** that the Select Committee recommends that the Ministers of Defence and Police consider extending support for managing Post Traumatic Stress Disorder to former personnel who experience Post Traumatic Stress Disorder as a result of their service with those organisations, and give particular attention to those former service personnel who are not covered by the Accident Compensation Act 2001;
  - d. **Note** the support provided to former members of the Armed Forces and Police employees in particular those employees who are neither veterans or who are otherwise ineligible to received benefits from the ACC or Veterans Support Acts;
  - e. **Note** that the Veterans' Advisory Board has provided the Minister for Veterans with an interim report on the matter of who should be defined as a veteran, with a proposed response to be progressed to Cabinet in due course;
  - f. **Approve** the Government Response attached to this submission to the Report of the Transport and Industrial Relations Committee entitled 'Petition 2014/51 of Gary William Roberts';
  - g. **Note** that the Government Response should have been presented to the House by 19 June 2017 but because of an administrative error was overlooked and should therefore be presented as soon as practicable;
  - h. **Invite** the Minister of Defence and Minister of Police to present the Government Response to the House in accordance with Standing Order 252; and
  - i. **Invite** the Minister of Defence and Minister of Police to write to the petitioner enclosing a copy of the Government Response to the report of the Transport and Industrial Relations Select Committee on the petition after the Response has been presented to the House.

Authorised for lodgement

Hon Ron Mark  
Minister of Defence

Hon Stuart Nash  
Minister of Police

Proactively Released by the Minister of Defence

Government Response to the  
Report of the Transport and Industrial Relations Committee  
On  
Petition 2014/51 of Gary William Roberts

Presented to the House of Representatives  
in Accordance with Standing Order 252

Proactively Released by the Minister of Defence

Government Response to the  
Report of the Transport and Industrial Relations Committee

On

Petition 2014/51 of Gary William Roberts

### **Introduction**

1. The Government has carefully considered the Transport and Industrial Relations Committee report on Petition 2014/51 of Gary William Roberts presented to the House on 21 March 2017.
2. The Government welcomes the committee's report and responds to it in accordance with Standing Order 252.
3. The Government acknowledges the concern raised by the petitioner and the Committee around the gap in legislative support for former employees of the New Zealand Defence Force and New Zealand Police who experience Post-Traumatic Stress Disorder (PTSD) and other health impacts as a result of their service with those organisations between 1974 and 2008.

### **Recommendation and government response**

#### **Recommendation**

4. The Select Committee recommends to the Government that the Ministers of Defence and Police consider extending support for managing PTSD to former members of the Armed Forces and New Zealand Police personnel who experience PTSD as a result of their service with these organisations and give particular attention to those former members of the Armed Forces who are not covered by the Accident Compensation Act 2001.

#### **Response**

5. The provision in the Accident Compensation Corporation Act 2001 of cover for work-related mental injury does not include Defence personnel diagnosed with conditions such as Post Traumatic Stress Disorder (PTSD) before 2008.
6. The provision of entitlements, services and support under the Veterans Support Act 2014 for members of the Defence Force who have suffered a service-related injury, illness or condition after 1974 does not apply to those who have not performed qualifying operational service.
7. Police and the New Zealand Defence Force have considered the extent of the support they provide to former personnel who have incurred PTSD as a result of their service including former service people who are not covered by the Accident Compensation Act.

8. The extent that this is happening is described below.

### **Support Available to Former New Zealand Defence Force Veterans**

9. A New Zealand Defence Force veteran who has suffered an injury, illness, or condition and who has eligible operational service may apply for entitlements, services and support provided under the Veterans' Support Act 2014. If the condition applied for by the veteran is accepted as service-related, the veteran may be entitled to receive the following entitlements, services, or supports involving their service related impairment:
- Treatment. Based on recommendations from a specialist medical or health practitioner and is needs based tailored for the individual;
  - Rehabilitation;
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10. Following the 2018 independent review of the operation of the Veterans' Support Act 2014 by Professor Ron Paterson, the Veterans' Advisory Board is considering the matter of who should be defined as a veteran, which was raised in Professor Paterson's report. The report discussed the issues around eligibility, with the report noting that the cumulative effect of military service could result in a number of adverse effects, but under the current definition only those related to qualifying operational service entitled the member to the support offered to veterans. The Board has provided an interim report on the matter to the Minister for Veterans, and the Government is currently considering its response to the recommendations.
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how and where to get mental health advice and support. This site is open to any member of the public.

### **Support Available to Former New Zealand Defence Force Person who are not a veteran**

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18. The application is a health and wellbeing self-help tool, which enables users to monitor their mental and physical wellbeing, offering them effective tools/processes within the application to help them maintain their health.
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  - Police continue to support a small group of former employees involved in special operations circa 30 years ago.
21. In addition, informal support networks exist outside of Police. An example is the social network site Facebook which has a closed forum for serving and former Police employees. With several thousand members, this forum offers various forms of support on and off line, and since its inception has seen referrals for Police welfare services for a number of members.

### **Summary**

22. The Government notes that New Zealand Police and the New Zealand Defence Force have support available for former employees that are not covered by the ACC and Veteran Support legislation and that each agency extends support on a case by case basis.
23. The Government also notes the valuable work that non-Government Agencies do to assist former New Zealand Defence Force personnel. Provisions were made in Budget 2018 and for the following three years to provide grants to the Royal New Zealand Returned and Services Association and the 'No Duff Charitable Trust' organisations to provide welfare support to former New Zealand Defence Force personnel.
24. Both New Zealand Police and the New Zealand Defence Force continue to review the services they provide to current and former personnel who suffer conditions such as PTSD.

### **Conclusion**

25. The Government thanks the Committee for its report and its consideration of the issues raised by the Petition. It notes that the New Zealand Defence Force and the New Zealand Police do offer support for those former employees who suffer conditions like PTSD, including those who are not covered by the Accident Compensation Act, and continue to review the extent of that support.