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Veterans
Ombud

Ombud
des vétérans



Annual Report

2022-2023



Veterans
Ombud
des vétérans

Canada 

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Message From **THE VETERANS OMBUD**

The highlight of 2022-2023 was the return to in-person outreach, events, and work. Notably, it was the first time since being named the Veterans Ombud in November 2020, that I was able to connect, in-person, with the Veterans community from coast-to-coast.

It is important for Veterans to know that our Office is here to provide Ombud services to those who feel that Veterans Affairs Canada (VAC) decisions have been unfair in respect of their requests for benefits or programs. As we continue to conduct in-person outreach, our Office will try to improve the ways in which we reach Veterans, their families and friends, to ensure they are able to attend our town halls, ask questions, and learn more about the services we offer.

The number one complaint our Office continues to hear is about wait times for disability benefit decisions. In Fall 2022, we published an update on the time Veterans and Serving Members are waiting for VAC decisions for their disability claim applications. While VAC has done a good job in bringing down the backlog of claims waiting for adjudication, claimants are still waiting on average much longer than the Department's published service standard of 16 weeks.

Also, we were made aware of an alarming situation concerning women RCMP Veterans who are claimants to the Merlo Davidson settlement and who are recipients of a VAC disability pension for a related condition. We found unfairness in the way that VAC disability pensions were being administered for some settlement claimants. While legislation requires VAC reduce disability pensions where pension applicants are in receipt of compensation for the same condition, we found that the first two settlement levels clearly did not compensate for ongoing disability. These claimants' disability pensions were in fact being reduced. It is unfortunate that this has become known as a "clawback", and as a result I am concerned that there are women RCMP Veterans who may not engage with VAC for the benefits they desperately need. We will continue to follow the progress by VAC on the recommendations made in my December 2022 letter to the Minister of Veterans Affairs.

Another concern which is top of mind, is how effectively services are provided to Indigenous Veterans.



During our outreach visits, particularly in Western Canada, we heard that Indigenous Veterans may face additional barriers in receiving benefits and programs from VAC. I look forward to increasing our efforts to learn more about the unique issues facing Indigenous Veteran communities, and I stand ready to help Indigenous Veterans on issues of unfairness.

Our mission remains focused on Canadian Armed Forces and Royal Canadian Mounted Police Veterans and their families, on investigating their complaints, and challenging the policies and decisions of VAC where we find individual or systemic unfairness.

Every day, each member of our team strives to be an independent and respected voice for fairness, and to be a champion for the well-being of Veterans and their families. I continue to feel privileged to work with the dedicated members of this Office and represent the work that they do.

Colonel (Retired) Nishika Jardine
Veterans Ombud



Our Organization:

ADVANCING FAIRNESS FOR CANADA'S VETERANS

Our organization consists of the following:

- Veterans Ombud
- Deputy Veterans Ombud and Executive Director
- Intervention Services Unit
- Strategic Review and Analysis Directorate
- Communications Directorate
- Corporate Services Directorate

The OVO has offices in Charlottetown, PEI, and the National Capital Region (NCR), with an average of 35 employees working across both locations. After nearly three years of remote work, in January 2023, the OVO moved to a hybrid work model, meaning staff are in the office a minimum of two days a week in both Charlottetown and the NCR.

SERVING VETERANS AND THEIR FAMILIES

WHO WE ARE

The Office of the Veterans Ombud (OVO) reviews complaints and challenges the policies and decisions of Veterans Affairs Canada (VAC) to identify individual or systemic unfairness. We work to be an independent and respected voice for fairness and a champion for the well-being of Veterans and their families.

WHAT WE DO

We operate independently and impartially:

- We listen to our clients
- We review their files with them
- We walk them through the process to their next steps

If we start a formal review of a complaint, we will explain how that works, evaluate how a client was treated, how the process was followed and whether the outcome is fair.

WHY SHOULD VETERANS CONTACT US?

Everyone seeking or receiving services and/or benefits from VAC has the right to be treated with respect, dignity, fairness and courtesy.

This is set out by VAC in the *Veterans Bill of Rights*, which establishes their right to fair treatment.

If Veterans feel that any of their rights have not been upheld or a decision is unfair, they have the right to make a complaint to the OVO.

OUR PRIORITIES

- **Building trust:** We meet regularly with the Veterans community and provide service to anyone who brings an issue to us.
- **Creating better outcomes for the Veterans community:** When we notice problems and/or gaps with VAC services and benefits, we recommend changes to improve the overall health and well-being of Veterans and their families.
- **Ensuring fair and timely access:** We continuously work to identify unfair, inefficient and overly complex elements in the administration of VAC programs and services.

Our Work:

SHARING, LISTENING AND CONNECTING

Connecting with Canada’s Veterans and their families, and other stakeholders is critical to our success.

In 2022-2023, the OVO resumed in-person outreach with the Veterans community and stakeholders. This included holding town halls in various locations throughout British Columbia, Alberta, Ontario, and Nova Scotia, where we listened to the issues impacting local Veterans, serving CAF and RCMP members, survivors, family and friends, to ensure the work we do is best serving them. In addition, throughout our engagement opportunities, we aimed to educate our target audience, partners, stakeholders, and decision-makers about the OVO’s mandate and the services we provide.

The OVO is grateful for the opportunity to meet with the Veterans community over the past year. The insight gained from our outreach activities will help shape our strategic priorities.

2022-2023 Ombud Engagements			
Meetings with Veterans and Organizations	42	Major Stakeholder Meetings	27
		Parliamentary Appearances	2

Online and Social Media Metrics	2021-2022	2022-2023	Increase or decrease #	Increase or decrease %
Website visits	70,400	84,559	+14,159	+20.1%
Facebook followers	6,438	6,790	+352	+5%
Twitter followers	3,378	3,398	+20	+.5%

VETERANS OMBUD ADVISORY COUNCIL (VOAC)

VOAC advises the Veterans Ombud on matters related to the OVO's mandate. VOAC members represent the diverse perspectives found within the Veterans community. Through their expertise and knowledge, Council members identify emerging issues and provide advice to address them. VOAC members also raise awareness within the Veterans community about the OVO and the work we do.

MEMBERS 2022-2023

Jane Hall
Brigitte Laverdure
David MacLeod
Brian McKenna
Jay Milne
Rebekah Mitchell
Shauna Mulligan
Tim O'Loan
Kimberley Unterganschnigg
Steve Walker

VETERANS OMBUD COMMENDATION AWARDS

The annual Commendation Awards honour outstanding individuals and groups who demonstrate their commitment to the Veterans community through their selfless hard work. Recipients are nominated by their peers for their exceptional contributions and dedication to improving the lives of Veterans and their families.

2022 RECIPIENTS

Lifetime Contribution

Fern Taillefer
Kent Griffiths
Sean Bruyea
Victoria Coffey

Individual Contribution

John Robert Walsh
Michael Pretty

Local Organization

Keith and Sue Henderson

National Organization

Helmets to Hardhats

Our Work:

FEATURED CASES

REHAB EXPENSES - DEPENDENT CARE – ADDITIONAL CHILD CARE EXPENSES DENIED

A single parent of three school aged children and a caretaker for their live-in mother, who suffers from dementia, was supported by their VAC Case Manager to attend an in-person rehabilitation facility for 45 days. The rehabilitation stay was pre-approved, and the Veteran made arrangements to attend. They were advised by VAC they would be reimbursed for dependent care expenses incurred over the treatment period. However, information on the specific amounts was not provided to the Veteran.

Upon completion of the in-person program, they submitted dependent care receipts to their Case Manager, yet, only a portion of the expenses were reimbursed. The remainder was denied on the basis that there is a maximum amount for dependent care that is set out in the regulations. The Veteran then appealed the decision to VAC's National First Level of Appeal (N1LA), but they did not rule in favour of the Veteran. The Veteran was out of pocket for the remainder of the money and was feeling overwhelmed and frustrated so they reached out to the OVO for help.

VAC policy states that a person may be eligible to receive reimbursement for dependent care when they are in the Vocational/ Medical Rehabilitation Assistance Program. However, the maximum amounts, which may be provided, are limited when child care is required to allow a participant to attend and participate in medical treatments.

When reviewing the case, the OVO determined that the result was unfair. The Veteran was not advised about the maximum limits for child care prior to participating in the in-patient treatment and therefore was not able to make an informed decision about attending. The OVO recommended to VAC that all child care expenses be reimbursed due to unclear communication. VAC accepted this recommendation and the Veteran received full reimbursement from the Department.

VOCATIONAL REHABILITATION PROGRAM

The VAC service standard for rehabilitation program decisions is two weeks. A medically released Veteran applied for the VAC rehabilitation program prior to releasing from the CAF, but did not receive a decision for five months because VAC said it was waiting for medical information from the CAF. During the five-month waiting period between release and decision date, the Veteran was not eligible to receive the monthly Income Replacement Benefit (IRB) nor were they able to receive rehabilitation treatments, paid for by VAC, for the conditions that had resulted in their release from the CAF and which were creating a barrier to a successful transition.

Although the client was finally approved for the rehabilitation program and began to receive the IRB, the client felt that the delay to reach a decision was unfair and, as a result, it had deprived her of five months of IRB. The client appealed the decision unsuccessfully at two levels, both of which upheld the original effective date of the decision, before reaching out to the OVO.

The OVO assessed the Veteran's file and determined that the Department had sufficient information for a decision to be made on the rehabilitation application when it was originally submitted by the client, and it was unfair that this decision was delayed. The OVO concluded that had VAC accessed the Veteran's records, the application would have been decided in a timely manner.

The OVO recommended that VAC adjust the effective date, compensate the Veteran for medical expenses incurred to treat the eligible health conditions and provide the IRB that would have been paid if the decision had been made earlier. VAC accepted the recommendations and agreed to alter the effective date of decision to five months prior to the original decision date. A retroactive payment for income replacement benefit was made to the Veteran and they were reimbursed for the rehabilitation treatment expenses incurred during that time.

RED ZONE DENIAL OVERTURNED

At VAC Red Zone applications are triaged for priority adjudication due to medical risk, and less often, financial risk. An approved Red Zone request is typically decided within seven to ten business days.

When a Veteran was diagnosed with end-of-life heart failure attributed to their service, the Veteran's Red Zone request (as they were medically at risk of death), was approved. A year after undergoing surgery and receiving treatment for their heart failure condition, the Veteran applied for disability benefits for two conditions related to the heart failure. Their request to have these applications Red Zoned was denied. VAC's decision was based on the fact that the Veteran had recently received surgery and was currently receiving treatment for their heart condition and was therefore not currently medically at risk for death. However, the client explained to VAC

that while the surgery was lifesaving, their conditions were still considered end-of-life, as they were irreversible. Having no appeal options available, because the decision to apply a Red Zone criterion is done solely at the discretion of VAC, the Veteran contacted the OVO.

Upon review of their case, the OVO determined that denying the Veteran's request to Red Zone his new applications was unfair because the policy does not state that if a Veteran pursues treatment, they are no longer considered end-of-life.

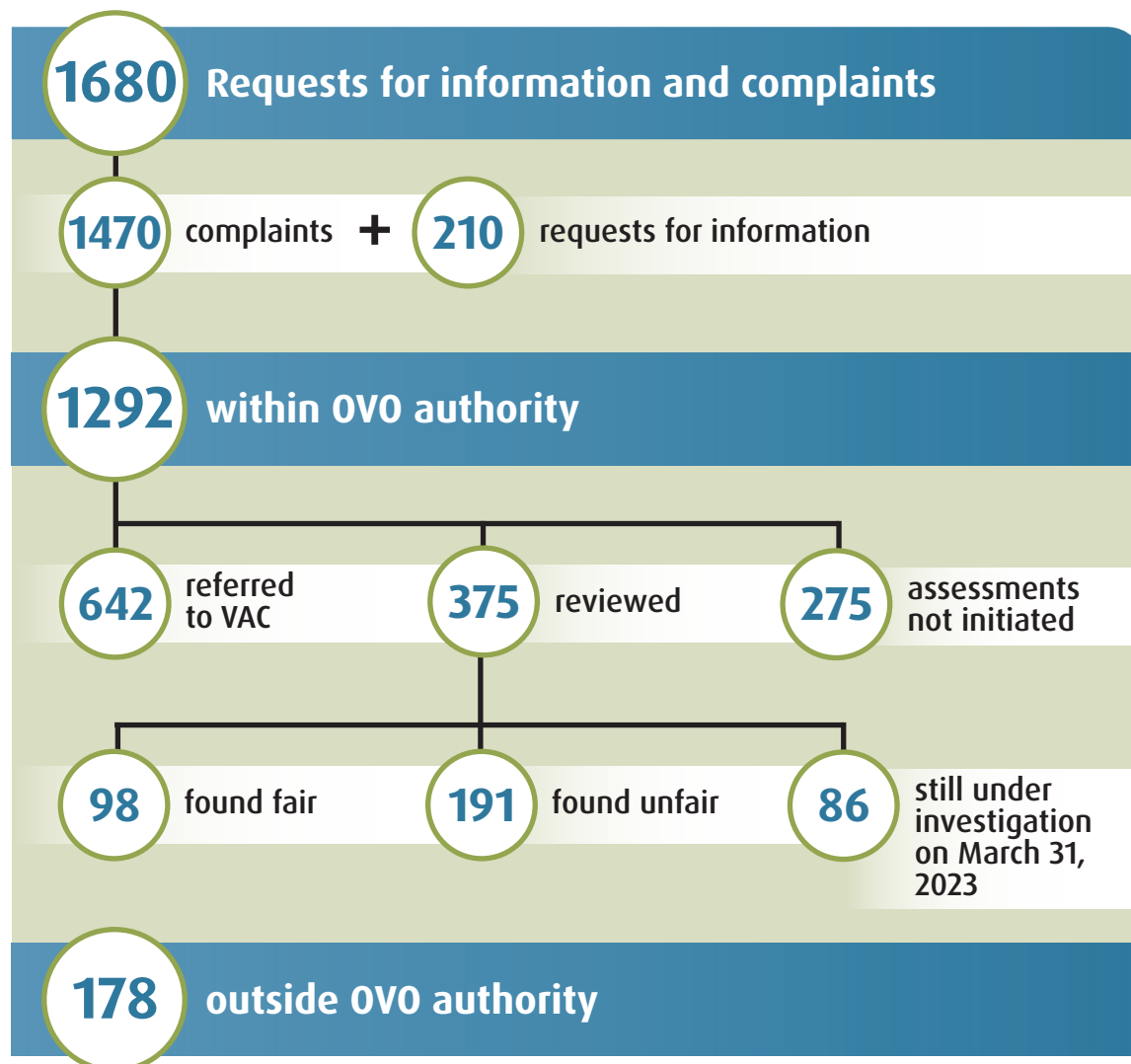
At the request of the OVO, the decision maker sought a second opinion from a VAC Nurse Adjudicator. The adjudicator's opinion was that although the Veteran's condition is now stabilized because of surgery and medication, it could deteriorate very quickly, and they still met the threshold for being medically at risk. This resulted in their Red Zone request for two disability applications being approved.

Our Work:

OUR CLIENTS 2022-2023

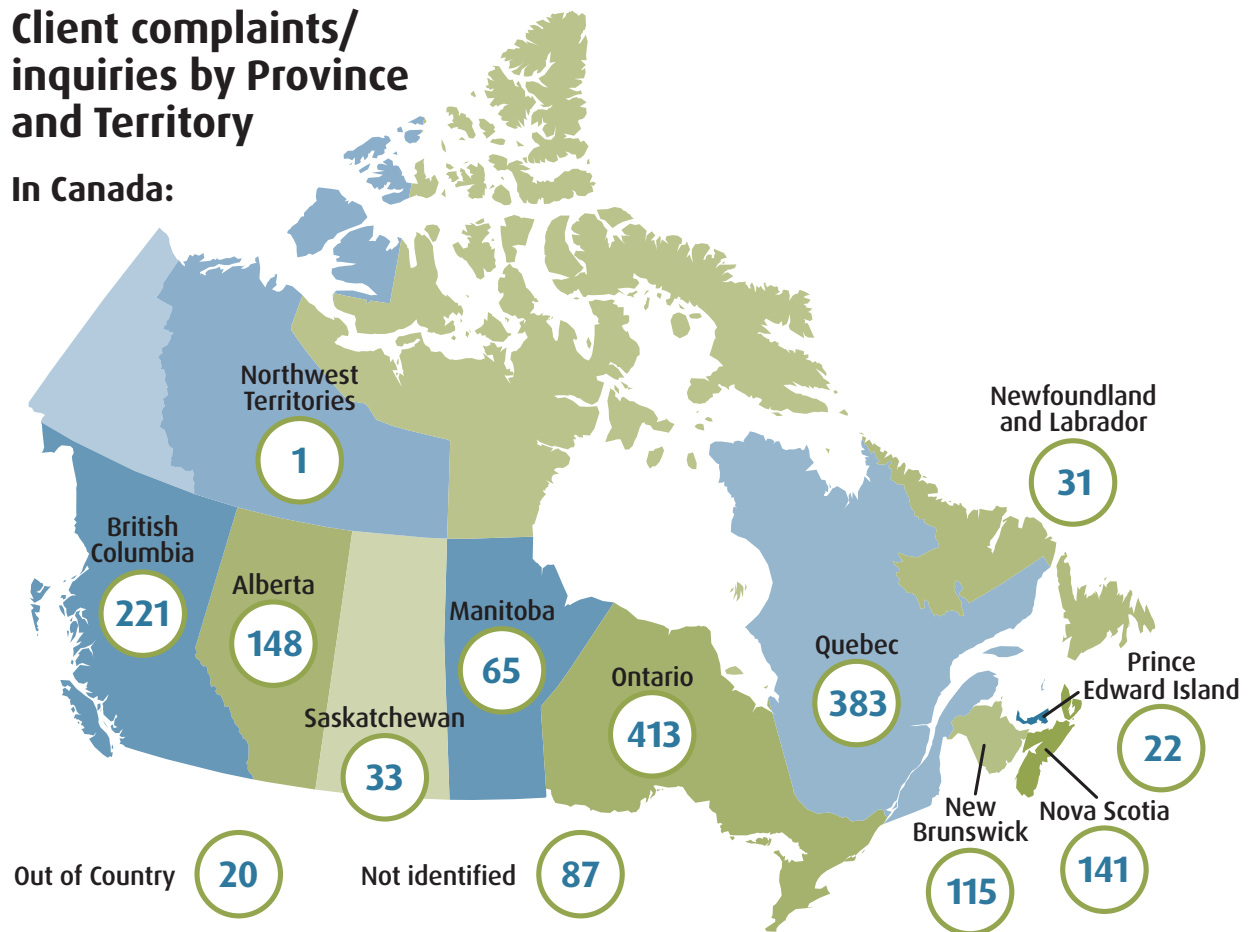
As in previous years, the complaints we received from Veterans and those advocating for them related primarily to Veterans' health supports and the wait time associated with disability benefit application decisions. We were able to meet or exceed our service standard by investigating 94% of complaints within 60 days, responding to 82% of information requests within five days, and making 86% of referrals within 10 days.

Intervention by the Numbers



Client complaints/ inquiries by Province and Territory

In Canada:



Note: These are complaints/inquiries by geographical location. There may be more than one complaint per client so the numbers may not reflect total clients.

Clients by Category

Allied Veteran	2	Merchant Marine	3
Civilian	16	Serving Reg Force	113
Former RCMP Civilian	2	Serving Reserve Force	11
Former RCMP	71	Survivor/Family	59
Serving RCMP	22	Traditional Veteran	10
Former Reg Force	952	Unknown	275
Former Reserve Force	144		

Clients by Age

20-29	17	70-79	101
30-39	270	80-89	62
40-49	299	90-99	21
50-59	369	100-109	3
60-69	307	Not identified	231

Clients by Gender

Another Gender	11	Man	1241
Not Identified	113	Woman	315

Preferred Language

English	1272	French	408
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Service Standards

Complaint Investigation	75% within 60 days	94%
Information	85% within 5 days	82%
Referral	80% within 10 days	86%

Our Work:

SYSTEMIC ISSUES

In 2022-2023 our Strategic Review and Analysis team focused on identifying and addressing systemic fairness issues relating to VAC programs and services. We published two reports, one letter to the Minister of Veterans Affairs, one resource guide, and the 2022 Report Card.

REPORTS

The Adjudication of Sexual Dysfunction Claims Consequential to an Entitled Psychiatric Condition (April 2022)

As part of our work to identify barriers experienced by women Veterans, we reviewed whether Veterans had equitable access to fair and timely decisions for sexual dysfunction disability benefits.

Our report found sex-based biases in the VAC adjudication processes for sexual dysfunctions that disadvantaged female applicants. We made the following recommendations:

- Eliminate sex-based bias in the VAC adjudication of sexual dysfunction claims consequential to a psychiatric condition.
- Update the PEN 68e Medical Questionnaire to equitably capture sexual dysfunctions affecting all clients.
- Update the Table of Disabilities to standardize the adjudication process for all clients.
- Refine the granularity of the data collection systems in order to fully capture the nature of sexual dysfunction claims in the diverse VAC client population.

In October 2022, we presented our findings at the Canadian Institute for Military and Veteran Health Research forum in Halifax, Nova Scotia.

Disability Benefit Wait Times Update (September 2022)

Lengthy wait times for Disability Benefit decisions have been a fairness issue the OVO has followed for years. This year, we published an update to our 2018 study on wait times for disability benefits.

This update to our 2018 study, reviewed the disability claim decisions completed between April 1, 2021, and March 31, 2022.

We found that:

- On average, disability claim decisions for CAF applicants took 43 weeks, and for RCMP applicants 39 weeks.
- Francophone applicants continued to wait longer than their anglophone counterparts, with male francophone applicants waiting the longest.
- The gap in wait times between male and female applicants has closed.
- Wait times for RCMP applicants has improved.

This report urged VAC to meet its service standard for deciding Disability Benefit claims and to implement our 2018 recommendation to proactively triage applications based on unmet health needs.

Letter to the Minister of Veterans Affairs (December 2022)

The Ombud wrote a letter to the Minister of Veterans Affairs Canada highlighting unfairness in the way VAC is reducing Disability Pensions for some Merlo Davidson class action settlement claimants.

Following a complaint from the Chair of the RCMP Veterans Women's Council, made on behalf of Merlo Davidson class action settlement claimants, the OVO reviewed the complaint and found unfairness.

To correct this unfairness the Veterans Ombud made two recommendations to the Minister:

- That VAC immediately cease Disability Pension reductions for Merlo Davidson levels 1 and 2 claimants, and issue corrective payments to women who have had their pensions reduced.
- That VAC publish the methodology for determining whether and in what amount Merlo Davidson compensation constitutes compensation for a pensioned disability and, if unable to do so, immediately cease Disability Pension reductions for claimants at levels 3 to 6 and issue corrective payments to those who have had their pensions reduced.

Care at Home Guide (October 2022)

The Care at Home educational guide aims to help Veterans and their families understand the benefits and services available through VAC that can help Veterans stay independent at home.

2022 Report Card

The Report Card tracks the status of the implementation of our recommendations to VAC. As of March 31, 2022, VAC has fully or partially implemented 69 percent or 52 of the OVO's 75 recommendations, showing a slight improvement over last year.

These recommendations address systemic gaps or barriers to equitable access by Veterans and their families for VAC services and benefits, in order for Government to fulfill its obligation to those who have served their country.

For the first time, we included VAC responses to each of the partially or not implemented recommendations and were encouraged that they are monitoring or working to implement 18 of them. We highlighted outstanding recommendations of particular concern, including timely decisions for disability benefit decisions, mental health treatment for families in their own right, and permitting a single CAF member with no dependent children to designate a family member to apply for and receive the death benefit.

In addition to our publications, we commissioned an expert in ombudsmanry to conduct an independent technical review of our outstanding recommendations. The review provided advice on whether each recommendation is valid, requires revision, or should no longer be tracked. In 2023-2024 we will analyze the review results and implement changes as part of future Report Cards.

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