

I [Robert Thomas Smedley] of []

hereby grant permission to the Department of Veterans' Affairs and the Minister for Veterans' Affairs to publish my submission to the Review of Military Compensation Arrangements.

Phone

Terms of Reference:

Examine the operation to date of the Military Rehabilitation and Compensation Act 2004

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Examine the legislative schemes that govern military compensation prior to the MRCA and identify any anomalies that exist.

Recommendation: Consider unintended differences identified between the MRCA and the Safety, Rehabilitation and Compensation Act 1988 (SRCA), Defence Determination 2000/1 the Military Compensation Act 1994 (MCA), and the Veterans 'Entitlements Act 1986 (VEA).

Response: At present we have the Safety and Rehabilitation and Compensation Act 1998 (SRCA), Defence Determination 2000/1, the Military Compensation ACT 1994 (MCA), the Military Compensation and Rehabilitation Scheme (MCRS) and the Veterans Entitlement Act 1986 (VEA).

Given all of the above Acts, Entitlements and Schemes, I feel that the problem with Compensation for serving Defence Personnel and ex Defence Personnel at present, is too top heavy and it either already has, or very shortly will fall over because of the amount of different Compensation Acts and Schemes available and the amount of different departments administering the above.

My recommendation would be to streamline the guidelines and entitlements of all the currently available Compensation Acts and Schemes, into one NEW Defence Compensation Scheme. By doing this it would bring all of the current clients from the myriad of Acts and Schemes under ONE umbrella.

This I feel, would not only make it easier for the clients, who currently struggle to find what their entitlements are, as there are so many different schemes which all have different entitlements. This to me would be more of a standard set of rules. You have to think of it as like for like, if a serviceman were to have broken their leg in 1970, why would there be any difference in how

your Compensation entitlement would be any different if a serviceman broke their leg in 2005. The fact here is that it is the same injury and should be treated the same, it shouldn't be that because of the passage of time those two servicemen are not only under two different sets of Compensation rules, but are both entitled to different amounts of Compensation.

This would also make it easier for the Public Servants employed to administer the Compensation and Rehabilitation. At present because there are so many different types of Acts for them to administer, you currently have the problem where, if you were to ring for information on one day, you would get totally different information the next. This is because there are too many Acts to try and keep abreast of.

It should also be noted here, that whilst the VEA, which is administered by the Department of Veterans Affairs does have an intrinsic part to play, it is **NOT** a compensation fund. This has on numerous accounts been fought before the courts by Defence Personnel whilst pursuing compensation and every time the courts have ruled against the VEA as acting as a compensation fund.

Examine the level of medical and financial care provided to Defence personnel injured during peacetime service.

I am one of the many Defence personnel who have been seriously injured during peacetime and feel that I am well versed on this subject.

On the consideration of medical care, to me there is no difference between someone with warlike, non warlike or peacetime service. If any of these servicemen were to be injured in the same manner there would of course be no difference in their treatment. Defence has a duty of care to supply them with treatment and that treatment would be exactly the same.

On the consideration of financial care, this is totally different. This is one area that there should be no disparity. When someone enlists in the Military, they all sign on the same dotted line, they all do the same basic training and at the end of that, they all put on the same uniform. To create an, us and them mentality I find nothing short of disgusting.

Just because someone is injured in a warlike situation, should not give that person anymore financial entitlements to someone who is injured at peacetime. Let's say you have two servicemen in the same mustering, one in a warlike situation and one who is still in Australia in a peacetime setting. They both have the same type of accident, you now have a situation where, the person in the warlike situation is entitled to more financial compensation than the person back home in Australia. If their injuries are serious and they both are MUFS (medically unfit for further service), then the person with the injury in a warlike situation is now also entitled to a service pension, the other is not.

In past conflicts, IE Vietnam, Korea etc, servicemen in that warlike situation were paid their service pay and that was about all. Now when someone is deployed to a warlike situation they not only get their service pay Tax free, but they also get multiple allowances that are also Tax free. I feel these Tax free allowances should be considered any financial compensation if they are injured, there should **NOT** be any difference between warlike and non warlike service when it comes to compensation.

This review has to look hard at the fact that, this compensation difference for war and non warlike injuries has, and still is causing great conflict between servicemen/women who have same type injuries. We can not and should not have an, us and them situation when it comes to compensation. Remember we all wear the same uniform.

The other recommendation I would like to put forward is this, the War Service Pension is now only know as the Service Pension. I feel that this should be in recognition of just that, your service, whether that be warlike or peacetime. If you are you are killed your dependant should automatically receive this, if you are so badly injured that you are discharged and can no longer work because of your injuries, then you should be entitled to a service pension.

I find it offensive when you have someone who been in the service for 6 months, has been deployed overseas is injured discharged and receives a service pension. Then you have someone who has served 20 years, is injured, discharged and receive nothing. If it is to be known as a service pension, then make it in recognition of your service to this country when you still give your life, or are seriously injured.

Consider the implications of an ADF compassionate payment scheme for non-dependants.

I would whole heartedly recommend such a payment. Just because this member had no dependants, they still have a family, which has supported their career choice to join the Defence Force. I can not see any implications for such a payment where these family members were not economically dependant and further more how does the Defence Force know that this members family wasn't dependant upon the member. I am sure that the odd occasion occurs where a member does help support their family without anyone knowledge.

This would also stop litigation that the Defence Force finds itself in, when family members do try and sue the Defence Force for negligence.

Consider the suitability of access to military compensation schemes for members of the Australian Federal Police who have been deployed overseas.

My recommendation would be not to develop an 'enhanced' scheme under the SRCA, this would only be creating another compensation scheme, adding to the already top heavy system we have now.

I would recommend it appropriate that the Australian Federal Police, who have been deployed on high risk overseas operations, have access to the MRCA. This to me would be common sense.

I do not consider it appropriate to develop a standalone compensation scheme for members of the Australian Federal Police who have been deployed on high risk overseas operations. This again is just creating another compensation scheme to add to the already top heavy list of schemes we have. If the Australian Federal Police were deployed along side of the military, then they should be considered to be included in our compensation schemes.

Issues falling outside the above Terms of Reference are out of scope of the review.

Question 1: No comment.

Question 2: functions and powers of the Repatriation Medical Authority, the Specialist Medical Review Council and the Veterans' Review Board,

This is one area that needs some serious collaboration, with all of the above it seems that not one of them talks to the other. I have noticed first hand when having to attend these authorities and boards; you have to go over and over your case every time. They do not understand the pressure that they put on someone. If there is a need for an injured member to see a specialist for a report, then that is understandable.

But when you have 2 or 3 of the above departments requiring you to attend multiple medicos, all for the same condition so they all have different reports, then that is when confusion reigns. It seems the functions and powers of these departments all go in separate directions. If a medical report is required by one of these departments, then it should be sent to all of the other departments concerned so there is no confusion.

Question 3: no comment

Question 4: no comment

Question 5: no comment