

Chair's introduction

1. On 8 April 2009, the then Minister for Veterans' Affairs announced a Review of Military Compensation Arrangements (the Review). The terms of reference focused on the operation to date of the *Military Rehabilitation and Compensation Act 2004* (MRCA), which provides compensation coverage for defence service rendered on or after 1 July 2004. The terms of reference also called for a review of legislative schemes that govern military compensation for service before 1 July 2004 and any anomalies that exist; the level of medical and financial care provided to members of the Australian Defence Force (ADF) who are injured during peacetime service; the implications of a compassionate payment scheme for the families of deceased ADF members; and the suitability of access to military compensation schemes for members of the Australian Federal Police (AFP).
2. A six-member Steering Committee was appointed to conduct the Review. As chair of the Military Rehabilitation and Compensation Commission (MRCC), the governing body of the MRCA, I chaired the Steering Committee. Members of the Committee represented the Australian Defence Organisation (Defence), the Department of Education, Employment and Workplace Relations, the Department of Finance and Deregulation (Finance), and the Treasury. Mr Peter Sutherland, a visiting fellow from the Australian National University College of Law and an expert in workers' and military compensation, was the sixth member of the Committee.
3. A project team was established to support the Review. The project team gathered information and prepared discussion papers for the Committee. It also consulted widely on behalf of the Committee by holding public meetings and visiting ADF bases in each state and territory capital city, as well as in Townsville.
4. The Steering Committee met frequently during the course of the Review. Mr Frank Benfield and Mr Ken Kipping AM, members of the Prime Ministerial Advisory Council on Ex-service Matters (PMAC), attended most Steering Committee meetings. Ms Anne Pahl of PMAC also attended some Committee meetings.
5. The Steering Committee and the project team met with a subcommittee nominated by the Ex-Service Organisation Round Table on several occasions. This subcommittee comprised Mr John Hodges of the Returned & Services League of Australia, Mr Michael Quinn of the Peacekeeper and Peacemaker Veterans' Association of Australia, Mr Tim McCombe OAM of the Vietnam Veterans Federation of Australia, and Mr Ian Wills of Legacy.
6. In addition to the formal consultation undertaken as part of the Review, MRCC members also sought feedback on issues being considered under the Review during their regular attendance at ex-service meetings and other forums.
7. The Committee received 68 submissions to the Review, 52 of which raised matters that were within the scope of the Review. Submissions generally raised technical issues about legislation or administration.
8. It was apparent to the Steering Committee that the broad policy principles underpinning military compensation arrangements are accepted by the defence and veteran communities. The Committee concluded that the policy principles and objectives

of the MRCA are sound (such as an increased focus on vocational and non-vocational rehabilitation, while ensuring an appropriate level of compensation for both economic and non-economic loss), and also identified some areas for improvement.

9. In recommending improvements, the Committee was mindful to balance a number of principles. These included a desire to reduce complexity; the need for the MRCA to be flexible enough to meet the needs of claimants; the tradition of recognition of the special nature of military service; the need to ensure members and former members of the ADF and their families are supported and cared for; modern approaches to rehabilitation and compensation; and the Australian Government's commitment to responsible economic management.

10. This report attempts to cover as many issues raised during the Review as possible, and includes the reasoning behind the Committee's recommendations. All the issues raised in submissions have informed the Committee's deliberations, even where they have not been specifically mentioned in the report.

11. The report contains a total of 108 recommendations that reflect the wide range of issues raised by submissions and during consultation. Of the 108 recommendations made to the Australian Government, 25 recommendations were for improvements to administration by the Department of Veterans' Affairs (DVA) and Defence; 28 recommendations called for legislative change; 11 recommendations identified areas for further work; 12 recommendations identified issues that should be further considered by the MRCC; 7 recommendations supported current DVA or Defence initiatives; and 25 recommendations were for no change in response to specific issues raised in submissions or consultations. Of the 108 recommendations, 19 have budgetary implications.

12. The Committee confirms the need to recognise the unique nature of military service through compensation arrangements that are specific to the ADF. Because the MRCA is unique legislation, comparing it with other Commonwealth and state compensation schemes is difficult. However, it was clear to the Committee that the benefits available under the MRCA compare favourably with compensation schemes in Australia, particularly death benefits and incapacity compensation.

13. The *Veterans' Entitlements Act 1986* (VEA) and the MRCA use Statements of Principles (SoPs) determined by the Repatriation Medical Authority to resolve causation issues when determining liability. The Committee has recommended no change to the SoP regime, but has identified a small number of issues relating to liability decisions that the MRCC should monitor.

14. A key change introduced under the MRCA is a stronger focus on early intervention and rehabilitation, and the Committee noted that this trend is being mirrored in other military compensation arrangements internationally. The Committee confirmed the importance of vocational, medical and psychosocial rehabilitation as an integral part of military compensation arrangements, and made recommendations aimed at improving and encouraging rehabilitation and early intervention.

15. The Review approached military compensation arrangements as a system, beginning in Defence and finishing with DVA, with significant overlap between the two departments at various points in the continuum. The Committee made a number of recommendations to improve administration throughout this system (particularly in relation to discharging members of the ADF) and to identify and fill any gaps in services provided by Defence and DVA.

16. Members of the Committee were divided on four key recommendations. First, the MRCA continues the tradition of recognising members injured on overseas service by providing higher permanent impairment compensation payments for injuries and diseases related to warlike and non-warlike service compared to peacetime service (known as the compensation differential). The Committee was divided on whether the compensation differential should be broadened to include compensation for severe impairment, or whether the current arrangements (which do not differentiate between different types of service for severe impairment) should be maintained.

17. Secondly, the Committee was divided on whether the compensation differential should be broadened to include compensation for death benefits, or whether the current arrangements (which do not differentiate between different types of service for death benefits) should be maintained.

18. Thirdly, alternative recommendations were made about the methodology used to calculate permanent impairment compensation under the MRCA for claimants who have previously been compensated or are being compensated under the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) or the VEA. The Committee was divided on whether the current methodology produces anomalous outcomes and should be reviewed, or whether the current methodology produces appropriate outcomes and should be retained.

19. The last recommendation on which the Committee was divided was on the extension of access to non-liability treatment for psychiatric conditions to former Permanent Force members and part-time Reservists with peacetime service only after 1 July 2004 (currently, only members with operational service can access non-liability treatment for psychiatric conditions). The Committee was divided on whether non-liability treatment for all psychiatric conditions should be provided to all former Permanent Force members and part-time Reservists who have served after 1 July 2004, or whether services provided by Defence in existing programs and as part of the Australian Government's response to the Dunt Review could be explored as an alternative.

20. The Committee concluded that the two review pathways under the MRCA should be refined to a single review pathway that includes internal reconsideration, the Veterans' Review Board and the Administrative Appeals Tribunal, with active case management at all stages.

21. Very few true anomalies were identified during the Review. A number of submissions pointed to the difference in benefits across various pieces of legislation. In almost all cases, the Committee concluded that these differences were intentional and not anomalous.

22. The Committee did not recommend a compassionate payment scheme for the families of deceased ADF members. Furthermore, while acknowledging the important work that the Australian Federal Police (AFP) undertakes overseas on behalf of the Australian Government, the Committee did not recommend that MRCA coverage be extended to include members of the AFP deployed on high-risk overseas missions, as the MRCA is a scheme designed specifically to meet the needs of the ADF.

23. Committee members support the recommendations contained in this report; however, proposals with financial implications that are considered in the Budget process will be determined with reference to the Australian Government's broader social and economic priorities.

24. The Committee was very appreciative of the contribution to the Review made by the defence and veteran community, including ex-service and other organisations. The information provided by these groups, and the discussions with representatives, greatly assisted deliberations on the many issues examined. The Committee would also like to express its gratitude to those people who shared with it, in their submissions or at consultations, and often with great difficulty, their personal circumstances and experiences.

25. The Committee would also like to thank staff of the Department of Veterans' Affairs; Department of Defence; Department of Finance and Deregulation; Department of Education, Employment and Workplace Relations; and the Treasury, who devoted considerable time and effort in supporting the Review.

Ian Campbell PSM
Chair