

1 Terms of reference and conduct of the Review

Chapter summary

The Review of Military Compensation Arrangements was established in response to concerns expressed by the veteran and ex-service community. An examination of the legislation was also timely, as the *Military Rehabilitation and Compensation Act 2004* (MRCA) had been in operation for six years. The Review aimed to examine all aspects of the compensation system and the operation of the MRCA, including access to the system and the level of medical and financial care provided to military personnel and their families.

In 2009, a call for submissions to the Review resulted in 68 submissions, 52 of which were in the scope of the Review, and in June 2009 a six-member Steering Committee was appointed to conduct the Review. Serving and former members of the Australian Defence Force (ADF), their families, ex-service and other relevant organisations, other government agencies and members of the public were consulted.

Background

1.1 In response to concerns expressed by the veteran and ex-service community, the Labor Party committed, in the lead-up to the federal election of 24 November 2007, to examine the military compensation system if it was elected.

Establishment of the Review

1.2 On 8 April 2009, the then Minister for Veterans' Affairs, the Hon Alan Griffin MP, formally announced the commencement of the Review and called for submissions from interested members of the public and organisations.

Terms of reference

1.3 The terms of reference for the Review were also released by the then Minister for Veterans' Affairs on 8 April 2009.

Terms of reference

The Review will:

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

- Consider legislative and policy issues identified by stakeholders relating to the Military Rehabilitation and Compensation Act 2004 (MRCA), including the quantum of benefits payable for death and serious injury.
- Document and examine past military compensation operational performance, ideally from 1 July 2004 until 30 June 2009, and report on factors impacting on performance.
- Recommend possible legislative and policy changes relating to the MRCA and improvements to claims administration and service delivery.

Examine the legislative schemes that govern military compensation before the MRCA and identify any anomalies that exist:

- Consider unintended differences identified between the MRCA and the SRCA, Defence Determination 2000/1, the Military Compensation Act 1994 and the VEA.
- Consider legislative and policy issues identified by stakeholders relating to transitional arrangements between the VEA or SRCA, and the MRCA.
- Recommend possible changes to address unintended differences identified by stakeholders between the MRCA and the SRCA, Defence Determination 2000/1, the MCA and the VEA, and issues relating to transitional arrangements between the VEA or SRCA, and the MRCA.

Examine the level of medical and financial care provided to members of the Australian Defence Force (ADF) injured during peacetime service:

- Consider what level of financial and medical care is available to members with warlike and non-warlike service, which is not available to members with peacetime service only.

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

- Consider the implications of a compassionate payment scheme for the family members of a deceased ADF member, where those family members were not economically dependent on the member before his or her death.

Consider the suitability of access to military compensation schemes for members of the Australian Federal Police (AFP) who have been deployed overseas:

- Consider whether the current arrangement to develop an 'enhanced' scheme under the SRCA remains appropriate.
- Consider whether it is appropriate for members of the AFP who have been deployed on high-risk overseas operations to have access to the MRCA.
- Consider whether it is appropriate to develop a stand-alone compensation scheme for members of the AFP who have been deployed on high-risk overseas operations.

Out of scope

Issues falling outside the above terms of reference are out of scope of the Review. This includes the following issues:

- determinations relating to non-warlike service or warlike service made by the Minister for Defence;
- functions and powers of the Repatriation Medical Authority, the Specialist Medical Review Council and the Veterans' Review Board;
- commemorative issues including the presentation of medallions;
- issues relating to the Defence Service Homes Act 1918; and
- services provided by the Department of Defence to serving and discharging ADF members, including the presentation of service medals.

The Australian Government has committed to a number of other inquiries and investigations that may impact on the military compensation system. Though the outcome of these may educate and inform the Steering Committee as they conduct the Review, the subject of those inquiries and investigations will not be the principal focus of this Review. This includes, for example, the Australian Government's commitment to revisit the recommendations of the Clarke Review, the parliamentary inquiry into former F-111 desal/reseal workers, and the Australian Government's Pension Review and Review of Australia's Future Tax System.

By their very nature, the different Acts that govern military compensation contain a number of differences. However, it should be noted that not all differences are unintended. If a submission raises an issue which might be concerning an unintended difference, it will be investigated. If the issue is determined to be an intended difference between the different Acts, this will be explained and noted.

Whole-of-government working group

The Review will work in conjunction with the whole-of-government working group, which focuses on key areas of administrative and legislative policy and administrative processes as they affect discharging ADF members and their families. It is expected that some issues will cross over between the Review and the working group. Where this is the case, referrals between the two reviews will be necessary.

Call for submissions

1.4 Following the then Minister's announcement of the establishment of the Review on 8 April 2009, advertisements inviting submissions to the Review were placed in major national and regional newspapers on 9 May, 30 May and 13 June 2009. The Chair of the Military Rehabilitation and Compensation Commission (MRCC), Mr Ian Campbell PSM, also wrote to key ex-service organisations (ESOs), inviting them to make submissions. At the same time, a website for the Review was established.

1.5 The Review received 68 submissions, 52 of which raised matters that were within the scope of the Review. Of these, 48 submissions were published on the Review's website as authors agreed to publication, although some details were removed to protect the privacy of individuals.

1.6 Given the enormous range of matters raised in submissions, the Steering Committee was not able to specifically address every issue. Nevertheless, all matters raised in submissions have informed the Committee's deliberations, even where they are not mentioned in the body of this report.

1.7 A list of submissions is included in Appendix A.

Appointment of Steering Committee

1.8 In June 2009, a six-member Steering Committee was appointed to conduct the Review, comprised mainly of high-level and experienced senior officials representing relevant departments, plus an independent member. As Chair of the MRCC and President of the Repatriation Commission, the Secretary of the Department of Veterans' Affairs (DVA), Mr Ian Campbell PSM, was appointed as its chair.

1.9 Other members of the Steering Committee were:

- Major General Craig Orme AM CSC, Head of People Capability in the People Strategies and Policy Group, of the Australian Defence Organisation (Defence);
- Ms Peta Furnell, General Manager, Social Policy Division, Fiscal Group, The Treasury;

- Ms Jenny Chynoweth, Assistant Secretary, Human Services and Veterans' Affairs Branch, Department of Finance and Deregulation (Ms Chynoweth replaced the initially appointed Ms Joan Ross);
- Ms Michelle Baxter, Group Manager, Safety and Entitlements Group, Department of Education, Employment and Workplace Relations; and
- Mr Peter Sutherland, Visiting Fellow at the Australian National University College of Law.

Project team

1.10 A dedicated full-time project team was established in DVA to support the Steering Committee by taking on some of the ground work and information-gathering roles. This team also prepared discussion papers for the Committee.

1.11 The project team was led by a senior DVA staff member and included a number of experienced contractors. The team was assisted by staff of the Department of Defence.

Cost of the review

1.12 The funding provided by the Australian Government as a contribution to the cost of the Review as part of the 2008-09 and 2009-10 Budgets is shown in Table 1.1.

Table 1.1 Funding from the 2008-09 and 2009-10 Budgets

2008-09	2009-10	Total
\$50,000	\$450,000	\$500,000

1.13 However, supporting the Review required significant DVA resources. Table 1.2 shows actual expenditure on the Review (including staffing, travel, contractors and other administrative costs) in the three financial years from 2008-09 to 2010-11.

Table 1.2 Actual expenditure on the Review 2008-09 to 2010-11

2008-09	2009-10	2010-11	Total
\$156,497	\$1,305,000	\$430,000	\$1,891,497

Note: These figures do not include staffing costs incurred in other agencies represented on the Steering Committee and costs incurred by Defence for the ADF base consultations. They also do not include overhead costs related to the project team staff and staff costs for DVA staff outside the project teams who provided assistance to the project team.

Consultation

1.14 Early in the Review, the project team consulted with serving and former members of the Australian Defence Force (ADF), their families, ESOs and members of the public. Details of those meetings are included in Appendix B.

1.15 The project team also met with individuals and organisations to assist the Steering Committee in its consideration of specific issues. Details of these meetings are also in Appendix B.

1.16 All but one of the public meetings were recorded and transcripts were provided to the Steering Committee and published on the Review's website.

1.17 In addition to the formal consultation undertaken by the project team, the Chair of the Steering Committee attended around 50 meetings with ESOs, individual members of the veteran community and members of the ADF, to discuss issues considered by the Review.

Prime Ministerial Advisory Council on Ex-service Matters

1.18 Two members of the Prime Ministerial Advisory Council on Ex-service Matters, Mr Frank Benfield and/or Mr Ken Kipping AM, attended meetings of the Steering Committee as observers. Ms Anne Pahl also attended three Committee meetings during their absence. Mr Benfield and Mr Kipping accompanied the project team as they consulted with the public and ADF members.

Ex-Service Organisation Round Table

1.19 The Steering Committee met five times with a small group nominated by the Ex-Service Organisation Round Table to represent ESOs' views, on 4 November 2009, 30 November 2009, 19 February 2010, 23 March 2010 and 5 May 2010.

1.20 The representatives were:

- Mr John Hodges of the Returned & Services League of Australia;
- Mr Tim McCombe OAM of the Vietnam Veterans Federation of Australia;
- Mr Michael Quinn of the Australian Peacekeeper and Peacemaker Veterans' Association; and
- Mr Ian Wills of Legacy.

Correspondence

1.21 The Steering Committee accepted and considered correspondence during the course of the Review.

Website

1.22 A website was established for the Review. The Review's terms of reference, questions and answers, and contact details were published on the site. Public submissions were also published on the site where permission was granted by the author. Information on public meetings was updated regularly, and the transcripts of those meetings were published on the site about four weeks after the meeting was held.

Examination of submissions

1.23 The Steering Committee appreciated the considerable time and effort that individuals and organisations put into preparing their submissions.

1.24 The Committee took a broad view of its terms of reference to ensure that relevant issues raised in submissions and during consultation were not excluded from the Review. However, some of the issues raised in accepted submissions were outside the Review's terms of reference.

1.25 The Committee was not able to respond to every issue raised during the course of the Review, but it is confident that all significant issues have been addressed.

Implementation of the Review's recommendations

1.26 The Committee recognised the Australian Government's commitment to responsible economic management and acknowledged that its recommendations will have to be considered in the context of the government's fiscal and policy priorities.

Structure of report

1.27 The Committee's report is presented in two volumes and seven parts:

- Volume 1: Overview
 - Chair's introduction, executive summary, recommendations and context;
- Volume 2: Detailed analysis
 - operation of the Military Rehabilitation and Compensation Act (MRCA);
 - legislative schemes that govern military compensation before the MRCA and anomalies that exist;
 - level of medical and financial care provided to members of the Australian Defence Force injured during peacetime service;
 - implications of an ADF compassionate payment scheme for non-dependants;
 - suitability of access to military compensation schemes for members of the Australian Federal Police who have been deployed overseas; and
 - other miscellaneous matters.