

THE COMMONWEALTH SUPERANNUATION CORPORATION (CSC) ALONE IS EXCLUDED FROM SCRUTINY.

CSC administers the Defence Force Retirement and Death Benefits (DFRDB) scheme and the Military Superannuation and Benefits Scheme (MSBS). By the Terms of Reference of the Royal Commission into Financial Services, CSC is specifically excluded from scrutiny:

- Requests by ADSO and the RSL (National) plus numerous Veteran requests to MPs for CSC to be included have been rebuffed by the Government which claims CSC already has **adequate scrutiny** and mechanisms for accountability. (*Heard that before about banks?*).
- Veterans have numerous complaints about the administration of CSC . Despite CSC reporting to Parliament that all members' **complaints** have been resolved, this is demonstrably untrue. (*Would you believe any organisation claiming all complaints have been resolved?*)

Surely Veteran members of military superannuation funds have the right, given to all other Australians, to have their grievances heard?

Claims of Adequate Scrutiny De-Bunked.

Government claims of greater accountability and scrutiny above that required of other funds is false. The government claims of this scrutiny and accountability are debunked in Table 1 below.

Complaints Not Addressed (Denial is not Resolution)

There are many areas of complaint which deserve to be aired. Far too many to be detailed here. So only some examples are provided. While the examples shown affect mainly Family Court they apply regardless of gender and result in treating Veterans differently to other Australians. This is not about some Veterans moaning about Family Court decisions. It is about the existing law not being properly applied and the refusal of CSC to state which law is being applied. This approach affects other areas of CSC as well.

In the examples below , the over-riding concern in these cases is not the alleged failure of CSC to report the nature of Invalidity Benefits in accordance with Legislation It is about the continued refusal by CSC to state to Veterans what specific part of the Legislation CSC are using to make the decision affecting the Veteran.

- The tables below show the impact of this false reporting. *They are hard to believe, but are true.*
- The Timeline below shows the actions of CSC by all means possible to avoid applying the law as it stands.

The Time line below can be summarised as:

- Veteran wins case in Federal Court > CSC is not acting in accordance with the legislation.
- The CSC solution > Get the Government to introduce Retrospective Legislation to change the law, making all the unlawful CSC actions legal.

BET COMMONWEALTH BANK AND AMP WISH THEY COULD DO THAT.

The Principal (ie member or beneficiary- the Veteran) is entitled to the single-minded loyalty of his fiduciary (ie the Trustee- CSC). The core liability has several facets. A fiduciary **must act in good faith**; he must not make a profit out of his trust; he must not place himself in a position where his duty and his interest may conflict; **he may not act for his own benefit or the benefit of a third person (e.g., the government or a non-veteran) without the informed consent of the Principal (The Veteran).**

CSC has failed its fiduciary duty.

CLAIMS OF ADEQUATE SCRUTINY DE-BUNKED

Last year, DFWA called for the Commonwealth Superannuation Corporation (CSC), which administers Veteran superannuation schemes, to be included in the Royal Commission scrutiny of all other superannuation schemes.

The government dismissed this request for Veterans to be accorded the same rights as all other Australians to scrutinise the management of their superannuation schemes.

The government refusal was based on claims that CSC already was subject to greater scrutiny and accountability than other fund managers due to various Acts of Parliament and Senate Estimates hearings.

Examination of the facts regarding this additional scrutiny is shown below. You be the judge.

Extra Accountability Due To	The Actual Extra Accountability and Scrutiny
<p><i>The Governance of Australian Government Superannuation Schemes Act 2011.</i></p> <p>This establishes CSC role functions and imposes governance arrangements.</p> <p>This Act requires production of an Annual Report to parliament.</p>	<p>The 2016-2017 Annual CSC Report states that all complaints relating to military superannuation schemes received in the period have been resolved.</p> <ul style="list-style-type: none"> • Veteran experience shows that some complaints are regarded as resolved by CSC declaring “we are right, you are wrong, we will not answer any more questions on this,” and “appeal if you like, we will seek costs”. • Even when CSC is found by the Federal Court to be wrong and awarded costs against CSC, the CSC response has been to ignore the finding and state “we are right”. • In any event, the number of complaints reported is incorrect. Perhaps CSC grouped over 200 similar complaints regarding CSC refusal to answer a question regarding which law they are applying to their decision. <p>There are many complaints regarded as unresolved by complainants. Surely these Veterans have the same rights as other Australians to have their complaints scrutinised?</p>
<p><i>Public Governance, Performance and Accountability Act 2013.</i></p> <p>This Act places a legislated duty on CSC to govern in a way that promotes “ethical” management.</p>	<p>A reasonable expectation of “ethical” is for CSC to act in conformance with the Judiciary Amendment (Commonwealth Model Litigant Obligations) Bill 2017. CSC has consistently failed in several areas in dealing with Veteran complaints and litigation. The following are clear, documented failures to comply with the rules in this legislation.</p> <ul style="list-style-type: none"> • Failure to deal with complaints promptly and deliberately causing unnecessary delays in litigation. Avoiding for over 4 years in answering Veteran question regarding what part of SIS Regulations CSC was applying in classifying Invalidity Benefits. • Pointing the Veteran to the Superannuation Complaints Tribunal (SCT), then contesting the jurisdiction of the SCT to hear the complaint. • Taking advantage of a (self-represented) claimant who lacks the resources to litigate a legitimate claim, attempting to deter him proceeding with case, by threatening to seek costs for CSC legal team. (In timeline case, CSC lost and had to pay Veteran costs). • In this case, to its “credit”, CSC conformed to rule of “ not undertaking and pursuing appeals unless the Commonwealth or the agency believes that it has reasonable prospects for success” .CSC advised it would not appeal, but would simply ignore the ruling of the Court and continue its current practice. <p>There are other examples of failure to conform to this Act. Is this fair, honest treatment?</p>

Extra Accountability Due To	The Actual Extra Accountability and Scrutiny
<p><i>As a Commonwealth entity, the CSC is subject to Parliamentary scrutiny through Senate Estimates process.</i></p> <p>The records of the hearings of past two years have been trawled for evidence of scrutiny.</p>	<p>The only attempts at scrutiny found in the Senates Estimates hearings in last two years is shown below.</p> <ul style="list-style-type: none"> • A question on notice regarding which standard of Supervision of Industry Superannuation Regulations did CSC apply to military Invalidity Benefits resulted in a non-answer - <i>it was too complex to answer generally but CSC has applied the law correctly in each case.</i> This answer in itself defies logic. If CSC has applied the law correctly in each case as claimed, why has CSC refused to state which part of the law they applied in response to individual questions by veterans? • In 2017, the CSC was absent from the annual Senate Estimates (scrutiny) check by the Finance & Administration committee because the Chair said that “no ministers had questions of them”. This said in a year when a record numbers of complaints (CSC Annual Report 2016-2017) were sent to the CSC and those ministers. • In the 2016 Senate Committee, the CSC was present and Sen Mathias Cormann interjected and saved the CSC from answering questions. • Many members of major parties have been given details of veteran complaints and questions regarding CSC. The complaints are there. The Senators have consistently not represented Veteran interests in scrutinising CSC in Estimates Hearings.
<p>Audit by the Auditor General</p>	<p>This is merely an Audit of the accounts and provides no information regarding acting in the interests of beneficiaries or members of military superannuation schemes.</p>

The Government is invited to provide evidence of the greater scrutiny claimed. Where are the questions that have been asked?

EXAMPLE OF COMPLAINTS.

There is an on-going saga with the way CSC reports DFRDB and MSBS Invalidity Benefits to both the ATO and the Family Court. The facts are:

- Superannuation (not DVA) Invalidity Benefits are paid to Veterans who are compulsorily discharged for medical reasons. This group includes our most vulnerable veterans, kicked out of the ADF, with the stresses of transitioning, uncertainties for health and job, strains on relationships and families coupled with the ADF service-caused mental and physical health problems. In such circumstances, the stress can lead to family breakdowns and Family Court adding to the stress.
- The Invalidity Benefits are reviewable until age 55 (MSBS) or for life (DFRDB). This means a veteran can have his condition re-assessed at any time. The Benefits can and do go up and down from Class A (Approx 76%) to Class B (50% of Class A) and down to Class C (0%) and vice versa. Equivalent civilian and public sector benefits can be reviewed for about 2 years and are then not subject to re-assessment. For Veterans, the possibility of a re-assessment and total loss of Benefit hangs over their lives for life or until 55 years.
- Under Regulation 12 of the Family Law (Superannuation) Regulations (FLSR), Invalidity Benefit Payments in other schemes, e.g., Public Sector equivalent, are listed and excluded from Family Court Income calculations whilst subject to assessment.
- CSC does not report the true nature of these Benefits to the Family Court or to the ATO properly resulting in large financial loss to the veteran. Not in her or his interests.

As a result of this reporting in the Family Court has led to the following “hard to believe” situations showing Income Splitting and Asset Splitting of Invalidity Benefits.

INCOME SPLITTING (Version 2A)

EXAMPLE FAMILY COURT INCOME SPLIT – BASED ON CSC REPORTING				NOTE
	Gov't Liability	Injured Veteran receives	Ex-Partner receives	<ul style="list-style-type: none"> CSC Reports Invalidity Benefit Payment as if it was for life and therefore splittable. The Injury compensation awarded to non-injured ex-Partner is paid for life by the Australian taxpayer. The Veteran condition can be re-assessed and the Benefit changed. If reviewed down, the Total Government Payment is reduced, e.g., to Class B 50% of the split Class A. The Ex-partner Payment is unchanged, and so the injured Veteran Payment is reduced by more than 50%. The Veteran payment can be reduced to 0, however the Payment to the ex-partner (for the Veteran's invalidity) continues to be paid by the taxpayer for life. The Veteran Superannuation Fund Value (notional) is reduced to 0 when Veteran receives Class A or Class B Invalidity Benefits. If Veteran is reviewed down to a Class C, the Veteran Superannuation Fund notional Value is restored. <p>Note 1. There has been conflicting advice received. When a Class A Benefit is reviewed down by 50% to a Class B, the 50% reduction is applied to either the total Class A (\$50,000) or just the amount of split Class A the veteran was receiving (\$30,000). In both cases, the non-injured ex-partner continues to receive the original amount of \$20,000. Getting consistent information regarding CSC is problematical.</p>
Injured Veteran Awarded Class A Invalidity Benefit – Annual Payment	\$50,000	\$50,000	0	
Family Court Splitting Order: Injured Veteran > 60% Ex Partner > 40%	\$50,000	\$30,000 reviewable 60%	\$20,000 for life 40%	
Veteran Invalidity Reviewed. Benefit Reduced to Class B. 50% of \$50,000 = \$25,000 50% of \$30,000 = \$15,000 (Note:1)	\$25,000 \$35,000	\$15,000 reviewable 43%	\$20,000 for life 57%	
Invalidity Reviewed Benefit Reduced to Class C	\$20,000	\$0 0%	\$20,000 for life 100%	

ASSET SPLITTING

EXAMPLE FAMILY COURT ASSET SPLIT			COMMENT
Equity in Family Home	Estate Valuation less mortgage	\$250,000	<ul style="list-style-type: none"> The Invalidity Benefit is also included in Asset splitting calculations. It is double counted as an asset and income. The Assessment of its value is questionable. Several reputable actuarial firms have stated they cannot be valued because the payments are not guaranteed for a period or for life. However, some “experts” have routinely provided valuations for many years and were accepted by the legal fraternity. The asset calculated is notional; it does not exist. The Income is paid from Consolidated Revenue on a fortnightly basis. Veteran may have to take out loan to pay ex-Partner share of assets. Veteran can be left with no realisable assets, a loan debt to be paid from reviewable Invalidity Benefit and any other income earned (if able to work) or from Centrelink. Only in recent times has the validity of CSC reporting and subsequent valuations been challenged, initially by Veterans representing themselves without legal support. The Veterans have been successful, prompting others to also challenge, also successfully. However, CSC continues to ignore Federal and Family Court findings purporting there is authority to do so. This stance by CSC in ignoring Curt Findings means that injured Veterans have to go through expense, risk and stress of fighting this in court. Many give up.
Cars + Other Property Assets	Joint Valuation	\$150,000	
CSC reports annual Invalidity Benefit Payments of \$50,000 to Injured Veteran. (Already split in Income Assessment)	Assessor calculates value of assets required to generate Annual Payments. (Notional – not available to Veteran or ex Partner - ever)	\$900,000.	
Veteran Superannuation Value	Value due to payment of Benefit	\$0	
Ex-Partner Superannuation Growth Phase	Accumulated Fund Value	\$200,000	
TOTAL Asset Value		\$1,400,000	
Actual Real Assets Available	\$900,000 is notional.	\$600,000	
Court Asset Split Asset Split 50/50	Injured Veteran \$700,000 (notional – never available to veteran). Veteran takes out loan to pay \$100,000 (real) to ex- Partner.	Ex Partner \$700,000 (\$600,000 in actual assets + \$100k paid by Veteran)	

THE TIMELINE – BEYOND BELIEF!!!

A Veteran questioning CSC about incorrect reporting was confronted with delay, refusal to answer the question regarding which law applied, and when finally confronted, rather than correct the mistake, CSC took an avenue not available to other superannuation fund trustees.

