



## DEFENCE FORCE WELFARE ASSOCIATION

A member of the Alliance of Defence Service Organisations

### MONTHLY UPDATE #272 – 20 June 2012

**'UPDATE' is a monthly e-letter produced by the Defence Force Welfare Association. It is a means by which the Service and ex-Service communities can be informed of those current issues that are of most concern to them. Distribution is intended to a wide audience that includes Members of Parliament, media outlets, Senior Service and Public Service Officers, and the members of DFWA and their supporters.**

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#### Introduction

The period since the last Update was notably marked by a bi-annual meeting of the National Executive of the Defence Force Welfare Association's (DFWA) over a two-day period 22 – 23 May 2012. It was held in Canberra within the precincts of the Australian Defence Force Academy. Wide ranging discussions ensued on the many issues at the forefront of the Association's current activities.

These included but were not limited to issues such as the on-going **Fair Go Campaign**, the important work being undertaken at the **Defence Force Remuneration Tribunal**, and the current concerns of the Defence community as to the likely eroding impact of the Federal Budget on the **Conditions of Service**.

Discussion also centred on the future way forward for DFWA as an effective Association so that it can continue to be a strong voice of advocacy for both the serving and ex service men and women of the Australian Defence Force (and their families), all whilst at the same time promoting and protecting their interests.

#### Special Thanks to Our Members and Supporters

In the latter regard, support for the Association's work among its members has always been strong. It has been equally so at the highest levels within the Department of Defence as well. Recently however, the flow of written expressions and other forms of support to the National Office has been particularly pleasing. As has been both the slow but steady growth of new members and, importantly, the steady flow of direct donations either to the Fair Go Campaign or to the Association itself.

For this kind generosity and support, **DFWA and its Alliance of Defence Service Organisations (ADSO)** partners wish to herein **warmly thank** the many recent expressions of strong support received over the last month or so for the work being done on a broad front, and on many key issues of concern to the currently serving and the veterans communities.

That said and for those reading this Monthly Update, we encourage your continued support which has been most welcome. **If you are not a member, please consider joining now.** Either way, your small or other donation would help immeasurably with our work on behalf of the military family.

And if you feel that you are in a position to be a potential sponsor, we would very much be interested in talking to you. The Defence community is a large one by any measure. We would welcome you as

a partner so that each of our interests could be enhanced working together. Please give our National Office a call at any time: **Email** [national@dfwa.org.au](mailto:national@dfwa.org.au) and/or **Phone** (02) 6265 9530

## Key Issues and Current Activities

The key issues that have occupied the work of DFWA over the reporting period are as follows:

- Military Superannuation, all of which includes the battle for fair indexation, access to employer benefits, abolishing maximum benefits limits for MSBS, commutation and the use of current (not out-dated) life tables; extension of military superannuation to ADF Reserve members, and matters relating to the taxation of military superannuation;
- The work of the Australian Defence Force Remuneration Arrangement Tribunal;
- Release of Service Records;
- Jet Fuel Exposure;
- Military Court of Australia (MCA);
- Unfair Balance of Legal Resources at the Administrative Appeals Tribunal; and
- Imposition of an Application Fee for Submissions to the Administrative Appeals Tribunal.

Each of these issues was the subject of correspondence between the National President of DFWA (and spokesman acting on behalf of ADSO) and the Minister for Defence, The Hon Stephen Smith. The last letter to the Minister putting to him the DFWA/ADSO position on all the issues was forwarded on 5 June 2012. A summary of these positions is provided in the following paragraphs.

### Military Superannuation

**Indexation.** The major concern of DFWA/ADSO on behalf of the wider Defence community has been that the Government had simply not consulted with it. That has had the affect of heightening the community's view that it will be presented with arbitrary policies likely to disappoint and again fail to meet expectations.

The Minister was advised that, in essence, there should be no discrimination towards the men and women who currently serve, or have served, in the ADF. particularly in the way their pensions are indexed (using CPI alone). Their pensions should be treated in the same way as other Commonwealth funded pensions and superannuation recipients are treated, namely, by being indexed using either a matrix formula which moderates the movement of the CPI, or is tied to a specific salary level to maintain their value. In effect, a long-standing 'employment' promise should be reinstated to maintain the relative value of superannuation pensions so that there is no loss in purchasing power as the years progress.

**Access to Employer Benefits.** The current arrangements significantly disadvantages members as annual indexation to CPI will see the purchasing power of their employer funds diminish over time. Even during the so-to-speak Global Financial Crisis Federal Government Ministers acknowledged that over the past 30 years Australian superannuation returned averaged 5% above inflation (meaning the CPI). The recommendation to the Minister was that those who leave the ADF should be allowed the option of rolling over their employer benefit to a scheme of their personal choice. Such an arrangement would reduce the unfunded liability that must ultimately be borne by the Future Fund.

**Commutation.** The continued use of out-of-date life tables means that the amount of money deducted from each DFRB/DFRDB fortnightly pension payment to repay the lump sum far exceeds the amount that would apply if the latest life tables were used. DFWA/ADSO believes that the Government should immediately adopt up to date life tables in calculating commutation and fortnightly payments for all new DFRDB superannuants and rectify the injustices associated with the application of inappropriate life tables over the life of these schemes.

The Minister was invited to consider the proposition that there was a clear oversight that the DFRDB Act did not somehow provide for the periodic updating of life factors. Any other explanation would suggest the improbable that the Parliament intended the reduction in the DFRB/DFRDB pension to repay lump sums thus progressively disadvantaging individuals as the years passed and life expectancies increased.

**Maximum Benefits Limits (MRLs)** The Minister gave his assurance that Maximum Benefits Limits are included in his deliberations on issues affecting military superannuation. This was welcomed since the matter was of considerable concern to a growing number of long serving and very experienced members of the ADF. DFWA/ADSO seeks the abolishment of Maximum Benefits Limits on MSBS – until that happens members will continue to be financially penalized.

**Extension of Military Superannuation to ADF Reserve Members.** More flexible MSBS membership for all ADF reserve members was sought. The Minister's response was that the MSBS only applies to ADF members and members of the Reserves on continuous full time service. The issue of superannuation for part time members of the Reserves is nonetheless being considered in the context of a review into the conditions of service of the Reserves as part of the Government's Strategic Reform Program.

The Minister also proffered that providing MSBS coverage for ADF Reserve members who are not on full time service would require a significant review of the MSBS as a whole. It would have significant implications to funding and benefits for current and future MSBS members.

**Taxation of Military Superannuation.** This has been a vexed question. Previous submissions have sought the removal of income tax on DFRB/DFRDB and MSBS military superannuation pensions for the over 60s, as well as for all invalidity superannuation pensions. The Minister's response has been that taxation on employee contributions in the military schemes is recovered when the superannuation benefits are paid (that is, when employer contributions are made). Since 2007 no tax is applied to member-funded benefits or to benefits that arise from a member's 'after tax' contributions for those over the age of 60 years.

### **ADF Workplace Remuneration Arrangement 2011 – 2014**

The DFWA/ADSO position put to the Minister was that remuneration of ADF members should take account of the '**uniqueness**' of military service and the special skill levels required to serve. A fair recompense of an increase in pay of 11.5 per cent over the three years was sought to retain real buying power value within the community generally. The Government rejected this submission and awarded 9.3 per cent instead. As a result of consultation processes with ADF members the offer was revised to a first instalment of four per cent and two subsequent instalments of 2.5 per cent to address some of the concerns that had been raised. The Defence Force Remuneration Tribunal approved the revised proposal on 28 October 2011. DFWA and the RSL submitted evidence to facilitate the outcome.

## **Release of Service Records**

Under the relevant provisions of the Archives Act 1983 the service records of ADF and former ADF members held by National Archives are made available for public access after the prescribes 30 years after the creation of the record concerned. This period is being reduced to 20 years, over a 10-year period. This will mean an increase in the proportion of ADF and former ADF members who will still be living at the time when their service records enter the open access period. This is of concern to many members and their families

The Minister has advised that Defence, in conjunction with the National Archives, is exploring the possibility of excluding particularly Performance Appraisal Reports. This is welcome news. Consideration should also be given to excluding any Personnel Records particularly those involving a members' medical condition.

## **Jet Fuel Exposure**

The present Jet Fuel Exposure Study has concentrated its efforts on F-111 aircraft maintenance operations. DFWA/ADSO has lobbied the Minister in support of a separate investigation into the work petroleum operators/handlers and maintenance workers undertake in the other services. They may also have been or are still exposed to fuels and chemicals while performing their duties.

The Minister has acknowledged the call for a separate investigation and understands that DFWA is represented on the Jet Fuel Exposure Syndrome Study Consultative Forum under the Chairmanship of Arch Bevis. If there is an opportunity to expand the Study it will be considered.

## **Military Court of Australia**

DFWA/ADSO has long opposed the provisions of the Legislation that would provide for the trial of serious service offences in the Military Court by judge or federal magistrate alone. The right to trial by court martial of these offences should be retained. The rationale being that the right to a trial by jury is the right of every Australian citizen, including members of the ADF.

The Minister has thus far supported the Legislation as it stands. He will continue to be lobbied to support appropriate amendments so that serving military members are treated as fairly in the court system as any other member in the general community.

## **Unfair Balance of Legal Resources at the Administrative Appeals Tribunal**

In the recent letter to the Minister DFWA/ADSO expressed their continuing disappointment with the outcome of the Workplace Remuneration Arrangement, particularly as its analysis of the Defence Employee Collective Agreement (DECA) pointed to a better outcome for civilian employees of Defence than the Workplace Remuneration Arrangement did for ADF members.

Despite Defence assurances that 'parity' of outcome was important no further action on the issue is contemplated or is likely. This is disappointing, as is the erosion as a result of the last Federal Budget of a previous condition of service that abolished recreational leave-travel for serving members over the age of 21.

Given that the Minister acknowledges the important part DFWA plays in representing the members of the Defence community, an assurance was sought that the Association be given greater access to ADF publications and electronic communication channels to enable it to better canvas the views of serving members on such issues as pay and conditions of service.

## **Application Fee for Submissions to the Administrative Appeals Tribunal**

When appealing to the Administrative Appeals Tribunal against the rejection of a claim for compensation veterans are entitled to Legal Aid funding. This funding covers the preparation of the case, one medical report, the appearance of the author of the medical report at the Tribunal to defend it, and a barrister to argue the case before the Tribunal for one day.

The difficulty is that most cases last over the one-day limit and require more than one medical report. This leaves veterans at a serious disadvantage financially because Departmental legal representatives are not required to limit themselves in a similar way.

The Minister has given assurance that the Department of Veterans' Affairs, the Repatriation Commission and the Military Rehabilitation and Compensation Commission are fully committed to comply with the Model Litigant Rules in the Legal Service Directions 2005. This is welcome but the matter of legal aid funding remains an issue which DFWA/ADSO will be continuing to pursue separately.

## **Conclusion**

DFWA and ADSO have informed the Minister that, while there is a general understanding of the budgetary challenges confronting the Government, there appears nonetheless opportunities for the Government to find some funding to mitigate several areas of almost institutionalized unfairness and even serious disadvantage. Progress on many issues is slow and sometimes appears to be even stalled.

The leadership of the **Alliance of Defence Service Organisations** is seeking to meet the Minister and relevant Government officials to discuss each of the issues that have been highlighted and which remain of serious concern to the Defence service community. The outcome of such a meeting will be reported in another Monthly Update.

## **Fair Go Activities – Progress Report**

### **ADSO Update #19**

Readers may well have noted that ADSO released its most recent **UPDATE #19** on 30 May 2012. A copy can be found on the **ADSO StandTo** website here: <http://www.standto.org/newsletters/update>

For those who may have missed it, the key '**Stop Press**' announcement was that Greg Carey of 4BC was to interview **Peter Criss** on Thursday 31 May at 11.00 am. The link to the actual interview can be found here: <http://www.4bc.com.au/blogs/4bc-blog/seeking-fairness/20120531-1zk3f.html>

After reading **Update #19** and perhaps listening to Peter being interviewed, please also click on the YouTube Video titled '**Australian Soldiers Ripped Off By Government**'. The video is compelling and articulates how Australian soldiers were '**promised**' a pension that would allow them to retain its buying power when they retire and, before they knew it, the Government effectively changed the rules forcing them to live with disadvantage and unfairness ever since. A quick link to the video is here: <http://www.youtube.com/watch?v=S2LSwuh-wfI>

## Canadian Experience

Those who thought that institutionalised unfairness for veterans was border limiting are invited to read what has been happening in Canada. There a class action succeeded when 4,500 disabled veterans lodged a Federal Court action to recover \$500 million in lost disability pension benefits over 30 years. That amount had been eroded over time. Does the story sound familiar!? In Canada it had a happy ending – see here: <http://www.cbc.ca/news/politics/story/2012/05/29/pol-mackay-blaney-veterans-pensions-clawbacks.html>

## Notice of Motion – Indexation

The Member for Lyne, The Hon Rob Oakeshott, lodged a Notice of Motion in the House of Representatives on Monday 18 June. The Motion was seconded by the Member for New England, **Tony Windsor** and called on the Government to:

- Consider increasing the Military Superannuation and Benefits Scheme Pension, Defence Force Retirement Benefit Pension and the Defence Force Retirement and Death Benefits Pension twice annually by the greatest of the Consumer Price Index, the Pensioner and Beneficiary Living Cost Index and the Male Total Average Weekly Earnings; and
- To do this in recognition of the unique circumstances of military service compared to all others within the public service.

The debate took place as planned and was interesting, except it was inconclusive with time having run out before a vote. Further debate was put off potentially for another day. The outcome of the debate will be reported another time.

## Other Issues of Significant Interest

### Salary Related Allowances – Other WRA/DECA Conditions of Service Issues

On 14 June the Defence Force Remuneration Tribunal continued its hearings into the Review of Salary Related Allowances. This is likely to be a process taking several months because each Allowance is considered sequentially in the context of the intended restructure.

The DFRT is **not** being asked to reach a determination on the matter until all Allowances have been considered individually and the comprehensive and consolidated restructure has been subject to final submissions by all parties.

The first two Allowances considered at the current hearing were the ‘**Service Allowance**’ and the ‘**Separation Allowance**’. For the benefit of those many members who have a keen interest in the outcomes of the Tribunal, a copy of each of the submissions (in PDF) will be attached to the covering email distributing this Monthly Update. Particularly note that each represents only the opening proposals by the ADF and are subject to modification as the process continues.

It is instructive to also note that the Defence Force Welfare Association, along with the RSL, was granted permission to also present submissions at the hearings. Our own Vice President, Pay & Conditions of Service, Phil Morrall, represented the Association and its members. His speaking notes will be also attached for your ready reference.

During the Tribunal's deliberations, DFWA took the opportunity to advise the tribunal of several issues that it believed are relevant to the Allowances under consideration, and relevant in the wider ADF Conditions of Service context. These included the WRA and DECA outcomes issue and the more recent Budget/SRP Conditions of Service changes.

DFWA will endeavor to continue to progress a DFRT review of the WRA/DECA issue, and intends to continue appearing as the Salary Related Allowance activity progresses through the DFRT process.

All readers with an interest in the outcomes of the Defence Force Remuneration Tribunal are invited to submit views and/or comments to Phil Morrall using his contact email as follows: **wra@dfwa.org.au**  
Please head your email 'REVIEW OF SALARY RELATED ALLOWANCES & OTHER WRA / DECA CONDITIONS OF SERVICE ISSUES'.

You will receive an automated acknowledgment but please be assured your comments will be consolidated into the final DFWA position.

## **Federal Budget – Conditions of Service Implications**

Fears by the Defence community that the Conditions of Service are being eroded over time were re-enforced by the announcement in the Federal Budget that all unmarried Defence members over 21 years of age based in the outreaches of Australia would lose their benefit to travel home at Government expense to be reunited with their family at times such as Christmas.

The impact of the change appears likely to be far-reaching with an estimate which suggests that close to 22,000 unmarried military personnel will lose their annual free flights home because of Budget cuts aimed at boosting the Government's surplus. By contrast, married servicemen and women posted away from families will still be entitled to six free reunion flights a year. Grave fears abound that this benefit may also be under review.

The members who may be subjected to the greatest disadvantage could be single members with children, who invariably will never be able to meet the required 90 night rule in order to have their children recognised by Defence as their dependents. These members have relied on this Recreational Leave Travel condition of service to visit them. The National Office has received numerous calls, some angry ones, from servicemen, including several parents all with concerns that an important (to them) condition of service has been arbitrarily taken away.

## **Summary**

This has been an unusually large Monthly Update but for good reason. There have been many key issues being actively pursued on behalf of members. Disseminating information on them was deemed to be important.

Your feedback on any issue is welcome, indeed, cordially invited. The email address to use is:  
**national@dfwa.org.au**

### *Media Contacts*

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\*ADSO comprises the Defence Force Welfare Association (DFWA), the Naval Association of Australia (NAA), the RAAF Association (RAAFA), the Royal Australian Regiment Corporation (RARC) and the Australian Special Air Service Association (ASASA).