



## DEFENCE FORCE WELFARE ASSOCIATION

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31 April 2018

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## **SUBMISSION TO PARLIAMENT'S JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE INQUIRY INTO THE DEFENCE ANNUAL REPORT 2016-17**

### **INTRODUCTION**

The Defence Force Welfare Association (DFWA) welcomes the opportunity to make a submission to Inquiry of Parliament's Joint Standing Committee on Foreign Affairs, Defence and Trade into the Defence Annual Report 2016 - 17. Although the Committee's Terms of Reference indicate that it plans to examine a range of issues, the ones of specific interest to DFWA and upon which it is qualified to comment relate to those with a workforce focus. That includes transition from the Services, Conditions of Service, Recruitment/Retention and ADF Remuneration.

These issues are at the centre of DFWA's purpose, which is to foster the best interests and welfare of all members of the ADF and their families in any matter likely to affect them during or after their period of service.

### **PROPOSED AUSTRALIAN MILITARY COVENANT**

#### **Unique Nature of Military Service**

Singularly the one discussion topic in the Defence Annual Report 2016 – 17 that is missing is arguably one of the most important, namely the '**Unique Nature of Military Service**'. It should underpin even the ADF's ethos and yet the words are not mentioned once in a document spanning 244 pages, albeit 'unique nature' appear once almost out of context under a Physical Employment Standard paragraph on page 118. As if the uniqueness of military service is something of little consequence as a concept to the senior leadership of the ADF.

Yet the concept long ago displaced the notion of military service being a 'Profession of Arms'. Today, literally all legislation affecting ADF members debated in Parliament by all sides of politics now reference military service as being unique. The concept is referenced at all Defence Force Remuneration Tribunal hearings, and Workplace Remuneration determinations take into consideration the unique nature concept of military service.

As a firm example as to the acceptance of the concept politically, it was a strong factor driving the then new Australian Defence Force Superannuation Bill 2015 for ADF members which replaced the dated Military Superannuation and Benefits Scheme (MSBS). In his Second Reading Speech, the then relevant Assistant Defence Minister noted inter alia four times over in the space of a short address to the House as follows:

*'In recognising the **unique nature of military service**, the Government has agreed to a single employer contribution rate of 16.4 per cent, which is a generous rate well above community standards';*

*'ADF Super recognises **the unique nature of military service**, and importantly, provides greater flexibility for individuals in how they manage their finances at various stages of their working life';*

*'Due to the **unique nature of military service**, it is often difficult for ADF members to obtain death and invalidity cover at a reasonable cost under group insurance arrangements'; and*

*'ADF Cover recognises the **unique nature of military service** and offers important protection for ADF members and their family consistent with that provided under the current MSBS'.*

No wonder the strong emphasis on giving recognition to military service by not only the Government but by policy makers on all side of politics. Recent years have born witness to a pronounced shift in assumptions and attitudes underpinning the way military service is viewed. Policy makers are increasingly attracted to the idea that soldiers, sailors and airmen should be adequately compensated by salary and allowances for their service both during service and after it has ceased.

Military service by some sections of the community may have once been mistakenly seen as comparable to other forms of service, such as Emergency Services, involving risk and danger. Critically, none are required to forego their inalienable human rights, recognized in the Universal Declaration of Human Rights namely, life, liberty and the security of the person (Article 3). Australia is a signatory of the Declaration, adopted by the General Assembly of the UN in 1948

In volunteering for military service and joining an ADF arm of it, a member must accept the surrender of his/her basic rights under Article 3. Without recourse, this places his/her life, liberty and security of person in the hands of the State. While this surrender is not unconditional, though *in extremis*, it is absolute. The State, for its part, accepts the obligation to preserve, as far as is consistent with the achievement of any military mission, the physical and spiritual wellbeing of such individuals who place themselves at its disposal. This obligation must invariably extend beyond the period of service itself, to the physical and psychological consequences of that service.

In no other calling, occupation or profession has the State the power to accept or demand the surrender of these rights. Military service in this fundamental respect is unique, and the obligations placed on the State is inescapable, as it is enduring.

## **Acceptance of an Australian Military Covenant**

DFWA has long maintained that a natural logical consequence that flows from accepting the 'Unique Nature of Military Service' concept is that there should be a formal commitment between the Nation and it ADF members. That commitment must be mutual and reciprocal.

Uniquely, ADF members commit to service in the defence of their Nation and, if faced with mortal danger, there is a general recognition that loss of life is a possibility. In return, the Nation has an obligation to commit to caring for and supporting those who, during or as a result of their service, are injured or suffer from disease.

The Nation is also obliged to commits to the care and support of the families of those killed during operations, or who somehow sacrifice their life as a result of their service.

DFWA notes that this commitment is strongly rooted in the Nation's history dating back almost 100 years. The then Prime Minister, Billy Hughes, unambiguously stated the Commonwealth's obligation to care for those of its citizens it commits to the danger or the trauma of war. That obligation has not diminished over time. Indeed, the issues that have spurred a number of recent Inquiries, not the least being the one into '**Suicide by Veterans and Ex-Service Personnel**' and its March 2016 counterpart demonstrate that the need remains as great as ever.

With respect to this Inquiry in the Defence Annual Report 2016 - 17, DFWA proffers that it is firmly committed to promoting and advocating for the health and wellbeing of ADF members and their families generally, including the wellbeing of those who once served.

Its promotion of a **Military Covenant**<sup>1</sup> is grounded in the same rationale that grounds the beneficial intent of ADF and veterans' related legislation, including the reverse onus or proof applied to Statements of Principles (SOPs) for operational and warlike service. A Military Covenant extends the Commonwealth's legislated commitment into a formally enshrined national commitment to serving ADF members. DFWA notes that support for a Military Covenant already exists in the Senate.<sup>2</sup>

## TRANSITION FROM MILITARY SERVICE

### The Process

DFWA contends that there are three entities that fill the transition space, namely:

- **The ADF:** Its prime role under the Defence Act 1903 is to defend Australia, including its national interests. That role demands that the ADF serves the Government of the day, particularly its Defence policy, and is accountable to the Commonwealth Parliament representing the Australian people. Arguably, the ADF is not resourced to have extensive, if any, programs preparing members for transition to civilian life. Invariably that means the ADF considers that it no longer owe a former member any further duty of care post discharge and/or retirement.

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<sup>1</sup> A Covenant, in its most general sense, is a solemn promise to engage in or refrain from a specified action; in this case, specific relationship. The mutual commitments enshrined in ADSO's proposed Covenant follow:

*The Australian Defence Force (ADF) was formed to defend Australia and protect its people and its interests. The service men and women who make up the ADF are Australian citizens who, while serving, must forego basic Human Rights enjoyed by other citizens.*

*They must comply with the additional legal and disciplinary requirements of Military employment. When necessary this will include taking up arms against Australia's enemies and defeating them in battle using lethal force.*

*They will be called upon to make personal sacrifices – including the possibility of the ultimate sacrifice - and in every sense to act honourably in the service of the Australian people.*

*In return, Members of the Australian Defence Force must be able to expect, from the Commonwealth Government on behalf of their fellow Australians, fair treatment, to be valued and respected as individuals, and that they (and their families) will be sustained and rewarded by commensurate terms and conditions of service. They further expect that those who are injured in service to the Nation and the families of those who die as a result of their service will be suitably cared for and sustained.*

*This mutual obligation forms the Covenant between the Nation, the ADF and each individual member of the ADF. It forms an unbreakable common bond of identity, loyalty and responsibility from which the "ANZAC Spirit" has emerged that has sustained the ADF in conflicts throughout its history.*

<sup>2</sup> In 2014 Senator James Mc Grath spoke in the Senate, unequivocally supporting the establishment and ratification of a Military Covenant, stating *inter alia*: "It is my hope that all federal political parties, including my own, will subsequently incorporate the concept and principles of the Australian Defence covenant within their respective legislative agendas. It is high time that we gave back to this extraordinary group of Australians".

- **Department of Veterans Affairs (DVA):** Its prime role is to deliver Government services to qualifying personnel who have served their country, including their dependants. While transitioning is a concern of DVA, it should be noted that only 20% of members transitioning out of the ADF become automatic DVA clients. Approximately 15% eventually become DVA clients after transition has occurred. This suggests DVA has no relevant information on approximately 65% of overall veterans' numbers.
- **Ex Service Organisations:** These are the organisations that work within the Defence Community and identify those experiencing difficulties, and who may not yet be provided with support from DVA. Being unaware of the support available is invariably a common factor. Assisting with the preparation of claims based on likely entitlements is a common practice. Traditional ESOs were established a century ago so that 'mates' could help mates and their families too. Tragically, recent reports identified substantive failings in the services ESOs are able to provide veterans.

## Effectiveness of the Transition Program

So, what of the perceived effectiveness of the current transition process? At best, DFWA considers it a work in progress. Much credit is due to a closer working relationship on the issue between ADF and DVA via what is understood to be a Memorandum of Understanding (MOU).

DFWA strongly supports such an MOU and its implications particularly for veterans' care and support in preparation for, during and after transition. The MOU is a positive signal of the Government's general commitment to veterans. The DVA's Lighthouse Project for veterans' centric reform would not have been possible without the exchange of veteran's service records that is a result of the MOU. DFWA endorses the Departments' objective of a seamless transfer of duty of care.

The experiences of those who have left the service attest that personal and administrative issues are not solved by an MOU alone. Younger veterans' forums and Facebook posts provide significant evidence that too many veterans are poorly prepared for and traumatised by their transition. Participants in one Forum<sup>3</sup> described transition as '*culture shock*'. They report that *having been institutionalised, they didn't know how to help themselves*. Specific comments included the following, each of which elicited responses from other participants that indicated the experiences were common:

*Although I was discharged for a specific medical condition I had to prove to DVA that I had the same condition*

*During discharge no-one asks do you understand this information/are you going OK with everything, and there is no follow-up after discharge*

*I have to repeat the story too many times – Defence, DVA, numerous medical professionals, pension officers, welfare officers – it never ends*

*I was just told to do my rehabilitation program and just get better. I wasn't offered any employment. My job for 12 months was to go to the physiotherapist once a week.*

Added to such experiences is the everyday demand of re-establishing in civilian life. Frequent challenges include finding a GP or a specialist that understands DVA processes or is prepared to provide clinical support or prepare a report for the fee that DVA pays.

Notwithstanding some problems, tangible results of the between ADF/DVA MOU are emerging. They include the following positive developments in the pre and post-transition spaces in term of DVA's recognition of service-related injuries and illnesses which does not form part of the Transition Handbook.

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<sup>3</sup> Younger Veterans' Forum, Sydney, 10 July 2015, convened by Training Consultative Group, NSW-ACT.

Under the Handbook, any serving or former ADF member with a PMKeyS number can register through the Department's new **Digital Front Door (MyService)**. This provides DVA automated information sharing with Defence through inputting PMKeyS and accessing their digital file. Of further benefit appears to be the changes made by DVA to its IT system to include an additional field to enable current and former ADF members who served before the introduction of a PMKeyS number to use their old service number to access MyService.

Added benefit seems to have been derived from the automated issue of a White Card sent to those leaving the service as veterans to enable early mental health treatment. Veteran Centric Reform will likely expand this service for all claims. **Smart Cards** will have all conditions loaded to streamline service with medical practitioners. The introduction of **Smart Cards** is, by any measure, a significant shift in DVA's efforts to improve business processes thus clearly enhancing efficient and seamless delivery of health services and support to veterans and dependants, post-service. DFWA considers this to be a significant enhancement of services.

The ADF's part in all this is critical and is recognised. Unfortunately, the Defence Annual Report 2016 – 17 is silent on the effectiveness or otherwise of the transition process. Perhaps because an effectiveness measure has never been a concern and, as a consequence, not addressed. Thus, remedial steps to rectify weaknesses and build on strengths have never been identified. Perhaps a study of discharged ADF members should be considered and executed jointly with DVA.

Although the ADF conducts Transition Seminars, there are serious issues with the process, such as:

- The seminars are not compulsory and are only run only three times a year.
- Of the two-day seminar, the main focus is on getting a job. Post ADF support is only addressed for about two hours over the period.
- ADF will brief personnel on transition but often it is too late and issues on post ADF support are not given the attention they deserve due to a members' immediate priorities such as relocation, new jobs, spouse's jobs and children's schools, to mention only a few.
- ESO's are the organisations invariably that pick up the pieces after a messy transition. They engage with the 80% of service members transitioning from the ADF without being a DVA client. Those members will need some assistance in later life. Limited exposure to ESO's is provided at Transitions seminars through a 10-minute video.

DFWA suggests that all ADF members should have regular (Yearly) mandatory briefings on subjects such as OHS, EEO, ethics and fraud awareness at their induction days. A briefing on post ADF support should be mandated and while personnel will unlikely remember the detail they will know there is help and to whom they could go.

## Conclusion

A Transition Task Force was recently established to review the transition processes and assess what has actually been achieved: it was set up between ADF, CSC and DVA. Unfortunately, there was no Ex Service Organisation involved. A report is understood to have been prepared. It is yet to be released. A revolving door of recent Ministerial changes has meant that the new incumbent Minister is yet to consider it. As best as can be concluded, a study of discharged ADF members has never been launched. A post-discharge survey should be undertaken of the post-service life of ADF members.

The Transition Handbook, while a significant improvement on past iterations, remains silent on many points that detract from its effectiveness. The handbook is in need of another review and potential amendment. DFWA considers that Defence should consider the inclusion of a more appropriate report on the Transition Programme in its future Annual Reports, as current reporting on this very vital issue is insufficient and hampers a considered response by ESOs, Defence members and even members of the public.

## DEFENCE REMUNERATION PROCESS

The most recent ADF Workplace Remuneration Arrangement (WRA) was concluded in November 2017. The Government and ADF reached agreement before the Defence Force Remuneration Tribunal (DFRT) for ADF members to receive a 2% pa wage increase for each of the next three years.

That outcome was a far cry from the last WRA which originally offered ADF members a 1.5% pa increase and included loss of entitlements, including leave to 'pay' for the wage increase. DFWA fought a vigorous campaign which included survey of ADF members, the result of which saw the original 1.5% pa increased to 2% pa and the proposed offsets abandoned.

As an approved intervener to the DFRT for all its hearings to consider WRA arrangements, DFWA has a number of fundamental positions it follows, namely:

### Maintenance of Cost of Living

DFWA believes that any wage increase must, at a minimum, maintain cost of living increases. Anything less would result in a decreased standard of living for ADF members and their families. Any WRA advancement that simply meets CPI (or below) is NOT an increase in real terms and is not countenanced, nor should there be a requirement for form of evidence of productivity improvement.

### Offsets

Whilst DFWA objects to the concept that any salary increases be simply funded by offsets, it acknowledges that it is the Government's policy that any increases in pay should be 'offset' by increases in productivity, and that it follows that the Government should expect any advancement in salary purchasing power (which by definition should be greater than CPI at the very least) be compensated for by higher productivity.

Outside of Defence (for example in a manufacturing organisation) the concept of 'productivity' is valid and relatively easy to measure, but it is irrelevant in a military organisation whose only deliverable is capability. DFWA suggests, therefore, that the notion of 'increased productivity' as an efficiency measure be discontinued in the ADF in favour of capability consideration.

DFWA believes that any diminution of existing conditions should never be used to pay for real increases. It is highly emotive, damaging to morale (potentially resulting in lower capability), disproportionate in terms of cost savings and can, in any case, be worked around by other means. The 2014 WRA debacle aptly supports this

**The DFWA therefore suggests that it would be more appropriate to focus on *capability* as the measure of output, which should be measurable.**

DFWA notes that the Defence Strategic Reform Program has identified over 300 initiatives that will deliver \$20 billion of savings over 10 years, and that all savings will be "reinvested in Defence". It would not be unreasonable for some of these savings – which in great part are generated by changes to personnel practices and entitlements – to fund equitable salary increases for the ADF.

**In Summary:** If the nation is prepared to continue to deploy its ADF and is satisfied with its operational performance, then DFWA believes it should at least continue to pay its members (and maintain their conditions of service) at a stable rate, instead of reducing their relative income and conditions of service.

## DFRT Processes

For some time DFWA has been concerned about the perceived lack of transparency in DFRT processes. It supports a change to the “behind closed doors approach” used by governments to thwart the Tribunal’s role in being seen to *independently* adjudicate a fair and equitable outcome.

When the Tribunal operates, as it should - under section 58H – DFWA acknowledges that it is a highly transparent organisation that has served the ADF well. However, the 2014-2017 WRA aptly demonstrated some deficiencies, when the DFRT endorsed the Commonwealth/ADF agreed position to award the ADF an annual 1.5% annual pay increase which was to be partially funded by offsets. Following widespread public dissatisfaction and strong lobbying by the DFWA, the Prime Minister himself stepped in and unilaterally announced that 2% per annum ought to be awarded, without offsets. The DFRT then sat again in April 2015 to consider a revised ‘Agreed’ position, and in June 2015 announced its decision to agree to the revised arrangement.

Whilst the DFRT is an improvement on the mechanisms in place before its establishment, there is concern that the 2014 WRA experience revealed once again that its role as an independent arbiter can easily be thwarted simply by bringing matters before it under Section 58KD of the Act. Typically, only Workplace Remuneration Arrangements are conducted in this manner, which prompts the Association to ask why this is so.

DFWA strongly believes that all matters of importance be conducted in accordance with Section 58H to allow the Tribunal to fulfil its proper function, and to allow ADF members a fair and equitable process not dictated by political pressure. The lack of transparency in the process has been regrettable. DFWA although acknowledged as the association representing ADF members has found that governments and administration officials over the years have erected obstacles hindering its work to the detriment of ADF members.

## RECRUITMENT/RETENTION

DFWA notes that there is a close relationship between remuneration and conditions of service, and recruitment and retention. It therefore follows that Government can do much to support adequate levels of recruitment and retention (and therefore support and maintain capability) by providing proper remuneration and at least maintaining conditions of service.

## CONDITIONS OF SERVICE

DFWA notes that over many years there has been a steady but relentless deterioration in numerous conditions of service which ADF members and their families considered to be part of their employment package on joining the ADF.

Indeed, the whole fundamental concept of the ‘Unique Nature of Military Service’ appears to have been allowed to erode, so much so that now the distinction between the uniqueness of the profession of arms to that of the Defence civilian public servant has become increasingly blurred.

This is especially galling when edicts are put in place to reduce conditions of service as offsets to “pay” for remuneration increases (comments in relation to remuneration above are relevant).

### The Unique Nature of Military Service Concept

In relation to protecting the Conditions of Service for ADF members, as discussed before, the importance of the concept ‘Unique Nature of Military Service’ cannot be over stated. The concept of a Australian Military Covenant flows from an understanding of this uniqueness. The objective of such a Covenant is to set out the mutual obligations between the Nation and its servicemen and servicewomen.

DFWA believes the Covenant will help promote greater awareness and understanding within the general community of the demands placed on ADF members, as well as the community's expectations of the ethos and standards demanded of them. It would also place on public record the Nation's enduring obligations to those who serve and have served in the ADF, and to equally record their obligations to the Nation.

At the moment there is no consolidated record of either set of responsibilities. The upshot is that promoting the well being of service personnel to the general community relies only on Government advertising and sympathetic media stories. In an increasingly multi-cultural society, we should not take the public's support for service in the ADF for granted. There should be a foundational document that is simple and straightforward from which the ADF can develop and maintain community support into the future.

DFWA recommends that the Inquiry affirms the 'Unique Nature of Military Service' and potentially advocate the need for a National Military Covenant that underpins the Conditions of Service for our ADF servicemen and women.

## Identified Changes in Conditions of Service

A comprehensive list of changed conditions of service would be difficult to generate, however the following may give the Committee the flavour of how conditions of service have deteriorated:

### 1. Entitlement versus Eligibility – Pay and Conditions Manual

With effect 1 July 2016, *Defence Determination 2016/19* implemented new Conditions of Service for all serving ADF personnel<sup>1</sup>. They are intended to be policy neutral. However, there is very little that they are “**entitled**” to. Members will instead either be “**eligible**” or “become eligible”.

The removal of the word *entitlement* is concerning as it opens the way for the bureaucracy to further identify expenditures for cutting, thus reducing the status (and entitlements) of the ADF member to that of their civilian public servant counterpart.

### 2. Mess Arrangements

1. Over many years mess standards (measured by catering standards, hours of operation and accommodation costs) have deteriorated, and it logically follows that ADF members are now more often getting together and living off base, away from the military environment. Messes are a fundamental part of the unique nature of military service as they play a significant role in supporting morale and unit cohesion (and ultimately, affect recruitment and retention and capability). More recently, Defence substantially increased bar costs, reduced bar hours, at the same time as increasing the accommodation costs for live in members. This all further reduces the role of messes in supporting the military ethos.
2. Defence has moved away from using the CPI as the standard method of indexation for mess charges to ADF members (Clause 6 of Defence Determination 2015/47). This resulted in having living-in members having their Fortnightly Meal Charge increased by 13.3% (supposedly to better reflect the actual cost of providing the service). And yet, Defence retains CPI as the method of indexation for meals paid to ADF members on official duty and for travel (0.2% increase in 2015)! The hypocrisy is clear to all.

## SUMMARY

The Defence Force Welfare Association is an Australia-wide organisation established in 1959 to specifically foster the best interests and welfare of all members of the ADF and their families in any matter likely to not only affect them during their period of service but afterwards as well.



Thus personnel issues, particularly as they relate to still serving members, are very much at the forefront of the Association's activities. That includes the following:

- Advocating improved conditions of service for ADF members;
- Providing advocacy services on behalf of serving personnel (and retirees) who may have a claim on the Government under Commonwealth legislation covering superannuation, compensation and veterans' entitlements; and
- Representing the interests of ADF serving members as a recognized intervener at the DFRT. DFWA is also the Defence Employees Representative on the Public Safety Industry Advisory Committee of Government Skills Australia.

DFWA is strictly politically neutral and has a deliberate policy of remaining outside the Defence policy debate, except where it may affect the well-being of serving ADF personnel.

Against this background and mindful of its principal roles, DFWA welcomed the opportunity to make a submission to the Inquiry by Parliament's Joint Standing Committee on Foreign Affairs, Defence and Trade into the Defence Annual Report 2016 – 17, particularly into aspects that focus on Defence personnel.

DFWA recommends to the Committee to examine in close detail and advocate the following:

- The 'Unique Nature of Military Service' be given recognition and a National Military Covenant be recognised as underpinning the Conditions of Service for ADF members.
- That maintaining the living standards of ADF members and their families should be of paramount importance to Government and Defence;
- Maintaining living standards by way of fair pay increases should not be subject to some offset in a reduction of the conditions of service;
- The DFRT process be made much more transparent and the Tribunal be left to independently adjudicate a fair and equitable outcome for ADF members;
- Recognition be given to the notion that proper and fair remuneration, and maintain conditions of service leads to good retention/recruitment outcomes; and

At the discretion of the Standing Committee Inquiry into the '**Defence Annual Report 2016/17**', I offer myself to appear personally before the Committee at any time and answer any questions about the issues contained in this Submission, or other questions that may be deemed appropriate.

Yours Sincerely



**Kel Ryan**  
National President  
Defence Force Welfare Association

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