



Australian Government

**Australian Government Response to the Senate Foreign Affairs, Defence and Trade
References Committee:**

*Inquiry into the accuracy of information provided to Defence Force Retirement and Death
Benefits (DFRDB) members.*

1 OCTOBER 2021

Recommendation 1

The committee recommends that the Australian Government consider ways to improve members' understanding of DFRDB and other military superannuation schemes. This could include additional information and education for ADF recruits and officer cadets, and ongoing updates for ADF personnel. It could also comprise a dedicated website or webpage for members, including a summary of the scheme and information on a member's contributions history and any residual pension payable.

The Australian Government **supports** Recommendation 1 of the Senate Foreign Affairs, Defence and Trade Committee's findings. The Australian Government notes that the Department of Defence has implemented a continuous improvement approach to the education of Australian Defence Force (ADF) members on financial matters including their understanding of the DFRDB and other military superannuation arrangements. This is done through a variety of mediums including: Defence's Pay and Conditions website, and the information and education services provided by the ADF Financial Services Consumer Centre and the Commonwealth Superannuation Corporation (CSC).

In 2006 the Chief of the Defence Force established the ADF Financial Services Consumer Centre (ADF Consumer). ADF Consumer operates pursuant to a charter from the Chief of Defence Force in support of the Australian Government's National Financial Capability Strategy. They administer and deliver Defence's financial literacy education service for ADF members and their families. Their aim is to help ADF members and their families become more financially capable. This includes providing a range of information regarding the DFRDB, Military Superannuation and Benefits Scheme and ADF Super, in consultation with CSC.

ADF Consumer works closely with CSC and delivers seminars to ADF members in different stages of their service, such as at initial training and transition to civilian life. In an average year, ADF Consumer delivers around 150 seminars on various financial topics for approximately 15,000 members. In addition, CSC's member education team provides on-base presentations to ADF members which provide superannuation scheme overviews and free individual member consultation to all ADF members.

In 2020–21 CSC delivered 231 seminars throughout the year, 150 of which were live webinars (due to COVID travel restrictions) and 4,000 one-on-one consultations to individual members.

Recommendation 2

The committee recommends that the Australian Government consider more assistance for DFRDB members to make claims under the Compensation for Detriment caused by Defective Administration (CDDA) scheme and appeal any adverse decisions or a separate reparation payments scheme for DFRDB members who are unsuccessful under the CDDA scheme to recognise the government's moral obligation to address any confusion and distress caused by defective administration. Where a CDDA claim was successful, compensation could include any professional costs expended in preparation of the claim, and legal and other professional costs if a claimant successfully appealed an adverse finding. Further, where the claimant's CDDA appeal was unsuccessful, the Commonwealth should consider not applying for costs to be awarded against the claimant.

The Australian Government **partially supports** Recommendation 2 of the Senate Committee's findings.

With regards to the Committee's recommendation about a separate reparation payments scheme for DFRDB members who are unsuccessful under the CDDA scheme, the Australian Government suggests that any such scheme would create perverse outcomes to different groups of DFRDB members. The Commonwealth Ombudsman, Mr Michael Manthorpe, outlined this issue in his public hearing statement on 20 May 2021 to the Senate Committee:

"... I stopped short of recommending that the government pay compensation or some form of reparation as, in my view, to do so would have: created new inequities between different groups; potentially produced an unjustified windfall for those who properly understood the scheme, at taxpayers' expense; and presumed to set aside what parliament had intended in the first place."

The Committee suggests a range of recommendations regarding the CDDA scheme.

The Australian Government supports this aspect of Recommendation 2. For members who believe they have sustained financial detriment as a result of their decision to commute, the Department of Defence has implemented an approach involving a tailored CDDA claim form intended to direct members' attention to the issues critical to the determination of their claim. Also, when claims are acknowledged, members receive a personalised email responding to the specific issues arising in their claim. Members are also given the name and contact details of a specific case manager who is available to discuss the claim with them, or correspond with them, depending on their preference.

It is noted that both the Commonwealth Ombudsman and the Committee report indicate that it is unlikely a member has suffered a financial detriment and therefore the likelihood of any member being successful appears to be limited.

The Committee report stated that:

"5.11 Despite the findings of the Commonwealth Ombudsman, some DFRDB members remain strongly of the view that they have suffered financial detriment based on their understanding at the time, which is actually a misunderstanding of how the scheme operates. In other words, the financial detriment is perceived rather

than actual as it compares their current financial situation to a scheme that does not exist in law, ie claiming an actual loss as opposed to a financial disappointment.”

There is a balance to be struck when dealing with claimants, between giving them the assistance they need to put their best case forward, and also managing their expectations. This is necessary to ensure that claimants are not given unrealistic expectations about their prospects for success. The Department of Defence has found to date that some members have been misinformed about the Ombudsman’s report and the Committee’s conclusions, and have been encouraged to claim based on a false factual foundation. As the Ombudsman put it in his report:

“It would do a disservice to falsely raise hopes of compensation among the members. Futile claims result merely in further inconvenience and frustration to the member, and an unnecessary use of public resources for assessment processes.”

If claimants disagree with specific aspects of the decision or present new evidence, their decision will be reviewed internally by a different decision-maker.

Subject to the rules in the CDDA Guidelines published by the Department of Finance, payment of professional costs for successful claims is an issue that Defence could consider on a case by case basis. In fact, claimants generally do not need professional advice to make a claim. Their argument is generally straightforward so there is no legal or financial complexity which requires specialist assistance.