

## THE COST OF MAKING AND KEEPING THE PEACE

The recent deaths of Sgt Locke in Afghanistan and Trooper Williams in Iraq has again sharpened the attention of the general public and the politicians as to the inherently dangerous nature of the overseas deployments that the ADF are undertaking, in particular, the middle East.

Whilst the nature of ADF service is inherently dangerous as evidenced by the number of deaths and serious injuries to those who are not on deployment but 'only' carrying out their training or being on exercise, the death or serious injuries to those serving overseas brings with it closer public and political scrutiny of not only the circumstances but as to how the Government are going to, 'look after their own'. The name 'Kovco' is one that will live forever in the minds of this generation for all the wrong reasons.

History has a way of giving us some insight into how current and former ADF members and in particular, peacekeepers and peacemakers who suffer physical and psychological difficulties and for the families of those who die whilst in service may be treated by the Government and the compensation scheme. In particular the new *Military Rehabilitation Compensation Act (MRCA)* that provides compensation for defence injuries and deaths arising after July 2004 is now being tested to really see if it can deliver all that it promised to be by the former Minister, Dana Vale.

Vietnam Veterans' through their Ex Service Organisations like the VVF know what it is like to have to engage in the protracted battles against the Government whose record of delays, denials and attempted defeat to those injured or the families for those who have died whilst serving is slowly being understood by the general public thanks to media interest and the ongoing lobbying from the ESO's as to the plight of these people.

The MRCA is being tested in the courts at the moment to see just how beneficial it is when considering those who may be considered to be 'dependents' on two ADF members killed in the SeaKing accident in Nias. The recurring

theme behind the denial of liability under the MRCA to the parents of one of those killed and for the god daughter of an ADF member who died and had provided financial support in part due to his god daughter's disabilities and the financial hardship faced by her mother, didn't seem to fit the tight template of liability being accepted under MRCA. And so the fight goes on for those who remain to pick up the pieces following the death of their loved one.

The use of Statements of Principals (SoP's) under the MRCA and their rigid and prescriptive formula of causally linking an injury, diseases or death to service has already been relied on with effect to deny another Afghanistan veteran for whom we act the right to have his psychiatric condition accepted under the MRCA again due to not fitting the SoP definition of experiencing a "stressor". This language and line of attack will be all too familiar to a number of Vietnam Veterans'.

The uncertainty for others as to the practical implication of choosing one appeal path over another under MRCA before going to the Administrative Appeals Tribunal (AAT) is a concern as highlighted by a recent client who wanted our legal representation to attend a resumed hearing before the Veterans' Review Board (VRB) following a rejected MRCA claim. They were not advised by their initial advocate that firstly, there was another faster option of review being the internal review and secondly, they were unable to have a lawyer with them at the VRB. The advocate by the way did not come from the VVF but from a significant ESO body who ought to have known and explained the difference of review paths and the implications.

With respect to the benefits payable under the MRCA and in particular, for the death of the ADF member, the reaction by some advocates who are unaware that the lump sum – death benefit payable to the family of the older Veteran – Trooper Williams who died in Iraq is less than for a younger Veteran at age 30 who dies is startling. The MRCA applies a sliding scale that provides for maximum compensation for death and serious injury up

to age 30 for men and age 35 for women which then reduces on a sliding scale depending on age, and an actuarial assumption that is devoid of reality as to the real cost for the families of those who lose an ADF member or if seriously injured that is a financial one as well as the emotional loss.

It is regrettable but a sad reality that the peacekeeping and peacemaking Veterans like the Vietnam Veterans who suffer as a result of their service may be facing another fight on their hands when it comes to pursuing their compensation entitlements under MRCA.

It's not just the MRCA obstacle that Veterans may have to overcome following their service. Just as some Vietnam Veterans are still retrospectively seeking to have their discharge changed from administrative to medical and therefore access the ComSuper (DFRB or DFRDB) scheme the many peacekeepers and peacemakers for whom we assist are also trying to do the same thing under the MSBS scheme given their obvious medical conditions at the time of discharge that hits them with far more intensity in 'civvy street'.

The Vietnam Veterans' Federations network and their advocates supports the current and former peacekeepers and peacemakers and provides assistance to overcome the obstacles that MRCA and other Government schemes create when it comes to pursuing benefits by those who have experienced the long and hard campaign to fight for the entitlement of their members.

It seems that the Government knows the 'cost' of having to pay compensation but not the value of those who put their lives on the line as part of their service and in the process have been injured or for the families of those who die.

Don't take "No" for an answer and get the right advice from those with the experience or if you're not sure whether a response or offer is right, get some advice "just in case".

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