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FADT Inquiry into the TPI payment (Special Rate of Disability Pension)

Introduction

The Vietnam Veterans' Association of Australia Inc is pleased to make the following submission.

For ease of reference we refer to the TPI payment (Special Rate of Disability Pension) paid under the Veterans' Entitlements Act 1986 (VEA) and the Military Rehabilitation and Compensation Act 2004 (MRCA), as the TPI payment.

Despite several reviews of the TPI payment in recent years it seems that not one review has provided an analysis of this payment that has satisfied a significant section of the veterans' community in two ways;

One, a clearly defined and agreed understanding of the government's purpose and structure of this payment, ie, what income level is being replaced; and

Two, any reasonable level of confidence amongst some veterans that the monetary value of the payment is fair and just.

This second issue has been aggravated by the government, (in response to criticisms that the TPI payment has fallen in comparative value against other wage and income measures), suggesting on several occasions including, in a letter from the Minister for Veteran's Affairs, that;

"The value of the Special Rate pension (the TPI payment) needs to be considered as part of a package including pensions, the Gold Card, health care, supplements, Goods and ServicesTax free motor vehicles and a variety of concessions and other benefits."

This Ministerial advice ignores the fact that most of the benefits quoted, except for GST free motor vehicles, are available to a wide range of veterans, not just those whose illnesses or injuries as a result of qualifying service have left them unable to *"earn a normal wage"* , whatever a "normal wage" is.

We suggest that clarification of these two matters should be an objective of this FADT inquiry.

In so doing we also suggest that the Committee recommend to the government that it should;

- provide a "plain English language" explanation as to the **objectives of the payment and the policies** that underpin it;
- explain why the government believes the TPI payment at its present dollar value, and without being conflated or "packaged" with other payments, is adequate and just; and
- state its policy as to how the government intends to maintain the purchasing value of the TPI payment if structural changes in the economy are such that adjustments due to the current indexation measures are ineffective. One way of doing this is to "benchmark" the TPI payment against an accepted wage index.

Objectives and Policies Regarding the TPI Payment – DVA Web Site Search – Special and Intermediate rates

In terms of the Special Rate a search of the DVA web site reveals;

"Higher rates of pension, such as Special and Intermediate rates, are known as Above General Rate (AGR) pensions and are payable if you are severely incapacitated and unable to earn a normal wage because of the effects of your accepted condition/s on your capacity to work."

The unclear item in the above statement is "a normal wage". What is considered to be a "normal wage"? We suggest that the FADT Committee seek an answer to this question.

Further, in the same document under the heading "Special Rate", in the third point a veteran is advised that;

"If you are under the age of 65, the Special Rate can be paid if you are:

- *prevented from undertaking your normal remunerative work or any other substantive work in your employment history for more than 8 hours per week, solely because of your accepted conditions."*

The question here is whether or not this statement is meant to imply that the Special Rate/TPI payment is somehow tailored to a veteran's *normal remuneration* until his/her accepted conditions prevented the earning of that normal remuneration? Clearly the current TPI payment is not related to the (prior to disability) normal remunerative work or any other substantive work of a veteran. Again, we suggest that the Committee seek clarification of this matter.

The same DVA document has a further subject heading *"How are the Special Rate, Temporary Special Rate and Intermediate Rates of pension determined?"*

The four paragraphs that follow do not, in our view, make any attempt to explain how these rates of pension are determined and we recommend revision.

Are there two components to the Special Rate, that is, the TPI payment?

On 1 June 2004 the then Secretary of DVA gave evidence to the Foreign Affairs, Defence and Trade Committee in respect to the TPI pension paid under the VEA. Mr Campbell stated that *"...the special rate is made up of two components: the general rate and the above general rate. The general rate is* *generally to be accepted to be compensation for pain and suffering and the above general rate is generally accepted to be income loss compensation."*

On 20 September 2007, in his second reading speech for the Veterans' Entitlement Amendment Bill 2007, (introducing new indexation measures for the TPI pension paid under the VEA), the Minister for Veterans Affairs (Bruce Bilson MP) stated *"Currently there are two components in the calculations for special rate and intermediate rate disability pensions. The general rate provides compensation for non-economic loss or pain and suffering, while the above general rate provides compensation for economic loss."*

These two statements also reflect the words of the Clarke Report (see paragraphs 109 and 111 of the Executive Summary).

However, in reply to an emailed query regarding the statement by Minister Billson quoted above, on 8 May 2015 DVA responded to the author that *"...under the Veterans' Entitlement Act (VEA), the Special Rate pension (TPI) is not split into economic and non-economic loss components."*

Further, on 15 December 2017, the Minister for Veterans Affairs advised Senator Reynolds that there is not and has never been an economic loss component of the TPI pension in the VEA, *"Instead, the VEA refers to the general rate and the above general rate components of the TPI pension."*

However, in November 2019, KPMG delivered to DVA a report titled "Review of TPI Benefits". Page 2 of the Executive Summary states that KPMG concludes;

- The TPI benefit can be considered to have the following components:
  - An impairment compensation component equal to the General Rate Disability Pension.
  - An income Replacement component equal to the amount of the TPI Pension above the General Rate Disability Pension ("Above General Rate Pension").

Apart from the statements made by a previous Secretary and previous Minister, and the conclusion of KPMG, we draw the attention of the Committee to what was known as DVA Factsheet MRC 09. In paragraph 5 Factsheet MRC 09 stated that "...the SRDP is compensation for both "economic" loss and "non-economic" loss.

This matter has caused confusion amongst some veterans and we recommend that the Committee seek clarification of this information.

What is the level of pension that is adequate compensation for economic loss or Normal Remunerative Work?

As noted in our Introduction the purpose of this submission is to seek a clearer explanation as to the objectives and policies of the TPI payment. We believe that the payment is currently insufficient but will leave it to others to discuss what is a just and adequate level.

However, we do note that at this time the DVA web site shows;

- the Special Rate (TPI payment) is $1,464.70 per fortnight (incl the Energy Supplement); and

- the General rate is $520.80 per fortnight (including the Energy Supplement).

On that basis a veteran who is unable to engage in Normal Remunerative Work receives $943.90 per fortnight ($1,464.70 minus $520.80) more than a veteran who is able to engage in Normal Remunerative Work. In other words, a veteran in receipt of the General rate receives a non-taxable amount of $520.80 per fortnight and can also continue to be in employment and earn whatever taxable income he or she can for as long as they are capable of doing so.

We note that the TPI payment is paid for the rest of the life of the eligible veteran and that this is often quoted as part of the justification that its current value is fair and just, however, we note that if the TPI payment was not paid for the life of a veteran then it would need to be increased significantly so that a young veteran could provide for him/herself and family for that period of life after which the TPI payment ceased.

Again, clarity as to the objectives of the TPI payment would facilitate this debate.

The Importance of Benchmarking the TPI Payment against Another Wage Measure.

We acknowledge that the TPI rate is indexed twice annually and that this is appropriate. However, this indexation-based adjustment will NOT of its own maintain the purchasing power of the TPI payment for at least two reasons;

One, even the use of one of three indices (the most favourable for an upwards adjustment is used) will not in the long run maintain the purchasing power of the TPI rate because the indices themselves will not always capture all the cost elements that lead to increases in the cost of living; and

Two, from time to time structural changes in the economy, (eg elements NOT captured by indices), will also cause increases in wages, with the full inflationary effect not necessarily reflected in changes in the indices for some time.

An example of a structural based change is the decision made by the Rudd government to increase pensions paid by Centrelink. The Rudd government saw fit to deny this increase to veterans who received the TPI payment.

In its submission (#307) to the Inquiry by the Senate FADT Committee into Suicide amongst veterans and ex-ADF persons, the TPI Federation, in its opening remarks, referred to previous benchmarks for the Special rate (TPI payment). The same matter appears in other submissions to that inquiry and other reviews, including the Clarke Report (para 29.15 on page 595).

The Clarke Report, also concluded that the Male Total Average Weekly Earnings (MTAWE) was a "...suitable benchmark for disability compensation payments."

We suggest to the Committee that a benchmark is needed and has not only a primary value in establishing and maintaining a rate but also has a secondary value of providing an easy understanding of the relativity of the TPI payment to other wage rates.

This is illustrated, using the data published in the Clarke Report, (at five-year intervals), for a comparison of the Above General rate component of the Special rate, (ie what we argue is the economic loss component) with the MTAWE after tax. The results are as follows;

Year	Special rate weighted average per week $	General rate weighted average per week $	Special rate less General Rate (the economic loss component)	MTAWE after tax	Economic loss component as a % of MTAWE after tax.
1972	45.42	12.83	32.59	71.90	45.3
1977	88.56	33.36	55.20	140.44	39.3
1982	140.19	52.72	87.47	251.30	34.8
1987	204.98	77.07	127.91	343.48	37.2
1992	280.17	105.95	174.22	456.57	38.15
1997	318.19	120.72	197.47	526.25	37.52
2002	365.69	138.30	227.39	634.53	35.83

This Clarke Report data shows clearly that the purchasing power of that component of the Special rate that compensates veterans for being unable to earn a normal wage has been, when compared to MTAWE (after tax), subject to erosion from 45.3% in 1972 to 35.83% in 2002.

For example, in Table A15.1 the Clarke Report compares the TPI pension against the Basic Wage, (weighted average), per week from 1920 to 1966. During that period the percentage fluctuated from 93.57 in 1920 to a high of 124.8 in 1933 (an effect of economic circumstances), a low of 79.06 in 1953 and 1954 to close at 92.99 in 1966.

We suggest to the Committee that they examine further the merits of benchmarking the TPI payment against the MTAWE (after tax) or some other similar measure so that there is, in addition to indexation, a further measure of protection of the purchasing power of the TPI payment.

The KPMG Report "Review of TPI Benefits" and The Service Pension

The Association wishes to draw the attention of the Committee to a further aspect of this report.

On page 2 of the Executive Summary KPMG concludes that *"The Service pension is also considered an income replacement benefit for TPI veterans (i.e. compensation). This is consistent with insurance principles, and the observation that early access to a Service pension on disability (i.e. before the Service pension age of 60) represents compensation for lost income and is not considered welfare."*

The assertion that the Service Pension is compensation (not welfare) is repeated elsewhere, eg in comments on the TPI Federation's proposal (KPMG page x), but in this case the assertion is modified to state (KPMG's words *"the Service pension is considered to have an element of compensation for TPI Veterans."*

However, on page 39, para 8.2.1, the KPMG report also states *"Therefore the Income replacement component (Above General Rate pension plus the service pension) can be estimated as $1,823.70 as at 1 January 2018."*

The point we wish to make is that in the above statement KPMG seems to be defining the Service pension as "income replacement" NOT compensation. This duality of thinking has caused confusion amongst some veterans.

A search of the DVA web site reveals, under the heading "What is a service pension?" the following advice;

"A service pension provides a regular income for people with limited means. A service pension can be paid to veterans on the grounds of invalidity, and to eligible partners, widows and widowers. It is subject to an income and assets test.

The age service pension paid to veterans who have qualifying service and the partner service pension paid to eligible partners, widows and widowers, are paid earlier than the age pension paid by Centrelink. This is in recognition of the intangible effects of war that may result in premature aging of the veteran and/or loss of earning power."

It is recommended that the Committee seek confirmation from the government that the service pension is an income replacement pension and is NOT compensation. We suggest that it be made clear to all that the Service pension is an income supplement and, apart from the qualifying age is little different to the old age pension

Conclusion

In the time available for the preparation of this submission we have sought to illustrate that the difficulties of the ongoing debate regarding the TPI payment are contributed to, in our view, by a degree of a lack of clarity regarding the various circumstances surrounding the payment. These matters need to be clarified.

We have not put forward a position in respect to the quantum of the payment except to say that we believe it requires an upwards adjustment. However, we have illustrated that if the TPI payment is expressed as a percentage of MTAWE it is clear that it has declined substantially over the period 1972 to 2002 and we have little doubt that this decline has not recovered.

This decline may not have happened if the TPI payment was set as a percentage of MTAWE (or some other agreed measure of income) and we have recommended that the Committee consider this measure and propose it to government.

Our comments on the need for clarity of objectives and policies have also drawn attention to what we believe have been misguided statements in the KPMG report "Review of TPI Benefits" in respect to the purpose of the Service Pension.

We are available to discuss any of the above or related matters with the Committee.

Yours faithfully

Max Ball
National President