Submission No 62

Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families

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INQUIRY INTO RAAF, F-111 DESEAL-RESEAL WORKERS AND THEIR FAMILIES.

On 28 May 2008, the Joint Standing Committee on Foreign Affairs, Defence and Trade authorised the Defence Sub-Committee to conduct an inquiry into RAAF F-111 Deseal-Reseal workers and their families. The resultant terms of Reference essentially call for anecdotal experiences of claimants. DFWA does not propose to respond on behalf of affected members, instead DFWA will address systemic issues that underpin this program with a view to their being revised to provide a more equitable, reasonable and responsive system for those who have been involved in the dubiously conceived program under review.

Background

As the records will probably show, our organization took the lead in the initial enquiry until the RAAF decided to take over this role and those on our *interested parties* register were required to deal directly with the RAAF. We were obliged to relinquish our direct responsibilities and became informed and concerned observers.

DFWA is most concerned that the resultant departmental response to the plight of the affected F-111 personnel was hampered from the outset by adherence to the statutory compensation environment in which the department operates in 'normal' situations. This state of affairs was also to prove an indicator of the Department's lack of understanding of the degree of suffering those affected were experiencing; the impact on their quality of life, life expectancy and families or the critical urgency of treatment and compensation. Moreover, despite the bizarre nature of

this situation, the treatment of those affected has been much less favourable than would have been available, had the current compensation scheme been operative.

Considerations

The response requirements for this enquiry make clear that the only evidence that is likely to be able to be collected in this process will come from individuals during the hearing phase. DFWA's aim in this submission is to raise issues that require further exploration and have the committee collect associated evidence during the hearing process, from individuals' submissions.

The department's compensation response comprised a one-off payment followed by a consideration of compensation for particular conditions based upon the severity of individuals' symptomatology (in the ordinary manner in which the Safety Rehabilitation and Compensation Scheme ordinarily operates).

The classification of people into class A and B exposure groups (and therefore their compensation entitlements) was undertaken on arbitrary grounds that hold no foundation in science, nor indeed are they based upon the severity of symptomatology (if any) of the members concerned, or the critical element of 'exposure'.

To avoid the calling of individual evidence as to whether particular conditions were related to DRP exposure, the Department chose to rely upon an administrative approach based upon Section 7(2) of the Safety Rehabilitation and Compensation Act to set up a schedule of health conditions that it would accept as being causally related to DRP exposure: (the S7(2) response).

This is the first time this nature of Departmental response has been applied in the history of the Australian Repatriation system. This response would not be possible under the Military Rehabilitation and Compensation Act which is now in effect.

The SOP system was introduced in 1994 and effectively replaced the "reasonable hypothesis" test substituting a test which, in effect, requires causation to be established in line with scientific standards of proof. The 1994 legislation set up a Repatriation Medical Authority (RMA) that was to be solely responsible for setting out, ON AN EXCLUSIVE BASIS, the causative factors giving rise to an injury or disease.

This premise is substantiated by the fact that the SOPs for the same conditions under the Veterans Entitlements Act have not been amended to cater for like treatment of causation. Therein lies the major systemic problem – the current military compensation scheme (MRCA) does not provide for the grant of compensation except on grounds of established medical science such that the F-111 servicemen would in almost all cases have been denied compensation.

Other ADF Aircraft Maintainers Affected by Toxic Chemicals

DFWA calls upon the Government to include consideration of the health impacts of similar programs on aircraft maintenance personnel who were employed at 2AD, Richmond, and worked on aircraft such as C-130 Hercules. That program was also based on exposure to toxic chemicals while in a confined space and without adequate personal protective equipment. Based upon the SHOAMP report and the Department's s7(2) response there appears no reason why the Department should not afford these servicemen similar compensation treatment to that sought for F-111 Deseal/Reseal workers.

The Department should also be tasked to identify what other aircraft maintenance personnel were exposed to similar toxic chemicals as anecdotal evidence suggests that maintenance requirements for Navy Skyhawk aircraft required the use of similar toxic chemicals.

Response to specific Terms of Reference

• The adequacy of arrangements under the Health Care Scheme

DFWA, in its research, concluded that the causal factor was exposure to toxic chemicals, not whether the individual spent time in the fuel tanks or not. DFWA thus identified a wider population, members of which were adversely affected by exposure to the chemicals involved in the Deseal-Reseal process and to benzene. Moreover, we were extremely concerned when we later learned that many of these members, whose health and quality of life has been seriously and permanently affected, were excluded from receipt of the gratuity.

The linking of eligibility for the gratuity to the one narrow criterion of time spent in the fuel tanks is a far too restricted and insupportable interpretation which has exacerbated the pain and suffering of many. Eligibility is also suggested to have avoided the real criterion: exposure to the toxic chemicals used in the program. This has left many who were similarly exposed and have experienced similar levels of symptomatology and loss of earning power without even the meagre compensation provided to Category A.

An example is a former RAAF Warrant Officer, whose involvement was not with the process, but with the testing and trialling of the highly toxic commercial products that were ultimately used. This member's duties involved the frequent exposure to and handling of shortlisted materials in a laboratory context, which the earlier enquiry chose to exclude from its considerations. This member continues to pay the price for his unquestioning commitment to his assigned duties. He has provided an individual submission and is only quoted here as an example of unfairly excluded individuals.

A further example of an excluded group is a Wing Commander, who as Engineer in charge of Ground Support Equipment maintenance at RAAF Amberley was responsible for the disposal of used chemicals and, with this team, was subjected to significant exposure, including in his case being immersed, as a result of an accident in transporting the materials. The rights to redress of this group and those similarly exposed should not have been disregarded.

• the adequacy and equity of the financial element of the Ex Gratia Scheme

DFWA's work with affected personnel has exposed a population whose problems began very early in the Deseal/Reseal process and went unrecognized for many years. This work also revealed a whole range of gross physical and mental symptomatology that made them a demonstrable underclass, which they continue to be despite the efforts to date of the Government. There is no way that, even if more widely available, the ex gratia payments could be considered to represent reasonable or adequate compensation for the pain, suffering and prognoses that this group has faced and will continue to face. In addition to pain, suffering, quality of life and impact on family members and structure, those affected by this program will also face for the rest of their lives, a significant decrease in their earning capacity and career prospects. Underemployment is a punishment in itself and information available to DFWA makes clear that this outcome exists in varying degrees for all affected by the exposure to toxic chemicals that is at the centre of F-111 and C-130 maintenance programs.

The Suffering Of Families

Anecdotal evidence collected by DFWA from personnel involved in the program included a range of symptoms with significant impact on family members and quality of family life. Emotional problems, deteriorating mental capacity, sexual dysfunction and personality change were all raised on a regular basis.

In addition there were multiple reports of members oozing a foul smelling brown substance from their skin following exposure to the chemicals under discussion. This discharge was alleged to have been absorbed by motor vehicle upholstery and soft furnishings in the home. This soiling often necessitated replacement or recovering of soft furnishings as well as further depreciating the self-worth of the individuals concerned.

It is also reasonable to suggest, on the basis of anecdotal evidence, that the vast majority of affected families have already experienced income losses well in excess of the maximum compensation that has been paid. Moreover, these losses will continue throughout their working lives, with associated impact on superannuation incomes on retirement.

Conclusions

F-111 Deseal/Reseal has been treated as a one aircraft type problem. Further to this, the focus of compensation and rehabilitation was firmly on those who spent time in the fuel tanks. This approach ignored the real cause of the problems: i.e. exposure to toxic chemicals used in aircraft maintenance, especially for surface preparation and coating. While the F-111 fuel tanks represented one source of exposure, they were not the only one. For F-111-based exposure, there were other related activities which are readily shown to have produced similar symptomatology to time in the actual tanks.

At the same time, problems of a very similar nature were occurring in the maintenance of other RAAF aircraft for the same reasons of exposure. As outlined above, similar exposure problems beset the C-130 wing rehabilitation program, in some cases from exposure to chemically similar solvents and coatings and in others from unreasonable exposure to demonstrably carcinogenic benzene and other toxic fuel additives which built up in the wing tanks. Personnel involved in this program need to be included in the F-111 population for treatment and compensation purposes.

The after effects of F-111 Deseal/Reseal were clearly not anticipated and this may have contributed to the delays and disorganization that characterised the early stages of the scheme. However, it is also evident that cost rather than reasonableness has been a key factor in the final solutions. As outlined above, significant numbers of personnel and their families have suffered a living hell – if they survived. In addition to physical and mental problems, those affected have also experienced significant under-employment where they have been capable of work.

The above makes clear that the impact of F-111 Deseal/Reseal is clearly permanent and in many cases terminal. Moreover, should any other employer inflict such a situation on their employees, it is clear that a $40,000 ex gratia payment, for those deemed most affected, would not be an acceptable outcome. DFWA believes that the Department has more, not less, responsibility for its employees than any civil organisation.

DFWA believes that the parameters for the original response to the F-111 issues were inappropriate and restrictive. The compensation offered is, by any reasonable standard, manifestly inadequate.

Recommendations

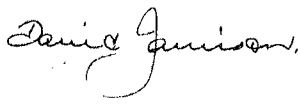
Recommendation 1

DFWA calls upon the Federal Government to widen the scope of this study to include all workers exposed to the range of chemicals used in the F-111 and similar aircraft maintenance programs to establish real causation for compensation purposes. This point is made to further highlight that F-111 circumstances are not unique, in terms of the real causation and that similar problems have occurred and will occur again and need to be addressed in an effective, equitable and proactive fashion. This study should also look at the validity of the current SOP process as it

has afforded too little recognition for the symptomatology of more obscure conditions; for example Gulf War Syndrome.

Recommendation 2
Causation is at the centre of the problems. DFWA suggests that the SOP regime become a non-exclusive safety net and that the Department accept sensible alternative hypotheses of causation according to the original 'reasonable hypothesis' test."

Recommendation 3
DFWA is not in a position to recommend a particular maximum compensation amount. However, it is clear that the current A level does not cover underemployment losses over any significant period, let alone compensate for pain, suffering and the impact on families. The outstanding issue here is that the original eligibility criteria were dysfunctional in their focus on time in the tank as the sole factor. *Exposure to toxic substances is the key issue and whether that occurred in the tanks, or in handling of the materials for other legitimate reasons, compensation treatment should be the same.*



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