



Submission No 70

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

Organisation: The Returned & Services League of Australia
Ltd
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IN 1916

THE RETURNED & SERVICES LEAGUE OF AUSTRALIA LIMITED

NATIONAL HEADQUARTERS

ABN 63 008 488 097

From: Major General Bill Crews AO (Retd)
National President

R1-2-25/BC:hmm
26 June 2008

NP: 156/08

The Hon Arch Bevis MP
Chair
Defence Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
Parliament House
CANBERRA ACT 2600

Dear Sir

Inquiry into the RAAF's F-111 Deseal/Reseal Maintenance Program

We have pleasure in submitting the views of the Returned & Services League of Australia Veterans to the Inquiry into the F-111 Deseal/Reseal Maintenance Program conducted by the RAAF.

It was noted that submissions should be prefaced with a brief summary of the main points, and in accordance with these guidelines a brief summary is included. However primary within this submission is the strong belief of the Returned & Services League of Australia that an equitable resolution to all the outstanding issues surrounding this program is possible, and highly desirable for the morale of veterans and current serving men and women, as well as future ADF personnel.

This submission was initially prepared by the Returned & Services League of Australia Queensland State Branch; through the services of the Chairman of the QLD RSL Veterans' Affairs Committee (QVAC), Mr Terry Meehan, Mr Viv Quinn, Veterans' Affairs Advisor and QVAC Secretary, and in particular Mr Ray Townsend, QLD State Branch Vice President.

Ray Townsend is a former RAAF Member who was a Senior Supervisor at the Deseal-Reseal Section at the RAAF Base Amberley from January 1983 to February 1984. It was in 1983 that Mr Townsend was appointed overall Manager of the section and remained so until being replaced by Warrant Officer Coles in 1984.

We trust the Committee will deliver effective and adequate compensation, and an equitable solution through the financial elements of the Ex Gratia Scheme. It should support the findings of SHOAMP, the Health Care Scheme response intent, and the Tier veteran compensation processing definitions. Furthermore, it is appropriate that it should relate to *hazardous* service and one off payments to other veteran Groups.

The kind consideration of your Committee is sincerely appreciated by the League and a favourable resolution would be gratefully received by the Veteran Community in this instance.

Thank you for the opportunity to provide Government with an overview of the serious concerns of the Veterans in this matter.

Yours sincerely,

Bill Crews

Encl: Submission F-111 Deseal/Reseal Inquiry

LEST WE FORGET

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SUBMISSION BY THE RETURNED & SERVICES LEAGUE OF AUSTRALIA
PARLIAMENTARY INQUIRY
INTO
THE F-111 DESEAL/RESEAL RAAF MAINTENANCE PROGRAM

Introduction

Since the introduction of the F-111 aircraft into Australian service, a range of fuel tank repair programs (Deseal/Reseal) were completed by both military and civilian personnel. As a result of health concerns expressed by the personnel involved in these programs, RAAF commenced an investigation in January 2000 into Occupational Health and Safety (OH&S) practices. At the same time, Air Force halted all Deseal/Reseal work until enhanced OH&S practices were put in place. The Air Force then convened an independent Board of Inquiry to determine all the relevant facts surrounding current and past Deseal/Reseal processes which made recommendations concerning OH&S regimes.

To further support the Board of Inquiry, the Department of Veterans' Affairs (DVA) set up a Health Study to assist the Air Force in determining the full extent of the health issues involved and to make recommendations on the health management of personnel affected by the program.

The Original Inquiry

In early 2000, following the concerns raised about the health of F-111 fuel tank maintenance staff, an Inquiry was held at RAAF Base Amberley. Once realised that the issues were long-standing, the Chief of Air Force convened a Board of Inquiry.

Following a thorough examination of some 700 witnesses and over 50,000 documents, fifty-three recommendations were made by the Board of Inquiry. These were accepted; however as they were Air Force-specific, the recommendations were subsequently modified for application across the Australian Defence Organisation.

The Health Study

Concurrently in 2000, a health study was considered to establish what health effects resulted from working on F-111 fuel tank maintenance. The study began after the Inquiry and was managed by the Department of Veterans' Affairs on behalf of Defence. After a particularly thorough study that examined 872 maintenance staff, a report was provided to Defence in late 2004. The study, which was a statistical comparison of the health of maintenance staff involved in F-111 fuel tank maintenance against others not involved, found an association between a number of health conditions and fuel tank maintenance.

The Government Response

The Government responded to the SHOAMP report with a package including an ex gratia lump sum payment and a Cancer and Health Screening and Disease Prevention Program (CHSDPP) for F-111 Deseal-Reseal personnel.

Summary

The Returned Services League of Australia is of the firm belief that:

- there is a need to address current entitlements under the various Group levels. Since the inception of the various Health Care schemes, interim and final, various levels of medical and counselling treatments have been introduced with resultant confusion amongst some Deseal/Reseal participants;
- an investigation of the basis upon which the determination of periods of access to Health Care Schemes and lodgement of claims be reviewed;
- a review and comparison of the treatment and benefits of the Health Care Scheme with other health systems would allay concerns expressed by veterans;
- that the Cancer and Health Screening and Disease Program be extended beyond 2009;
- there is insufficient counselling services, especially genetic counselling;
- the lump sum Tier system of payment is inequitable and inadequate;
- cross Agency cooperation was at an acceptable level;
- the documentation and records held by the Agencies required attention;
- alternative standards should have been utilised by the Department when determinations were made; and
- our concerns relate to Veteran and Service personnel as other contracted personnel fell outside our terms of responsibility.

The Response of Returned Services League of Australia (RSL) to the Terms of Reference of the Parliamentary Examination Inquiry into the F-111 Deseal/Reseal Maintenance Program

The RSL represents the views of those Member Veterans and Service personnel who had either a direct or indirect involvement. They were:

DIRECT INVOLVEMENT

- Personnel who worked inside body fuel tanks of the F-111 aircraft for extended periods of time for a cumulative period of not less than 30 working days, removing sealant and/or resealing the tanks. This category is exclusive to personnel employed in the F-111 Deseal/Reseal and Respray programs over the period 1977 to 1982, 1991 to 1993 and 1996 to 2000. The personnel involved include those involved in aircraft preparation, chemical Deseal/water-pick, hand cleaning, barrier application, sealant application, plumbing in, air (dry) checks and fuel (wet) checks. This did not include Motor Transport Drivers who were employed as Fuel Tank Drivers who may have been responsible for de-fuelling F-111 aircraft prior to Deseal/Reseal activities being undertaken;
- Personnel employed full time on the wing tank program actively removing and replacing sealant for a period of not less than 30 cumulative working days between 1985 and 1992;
- Personnel working on sealant rework (pick and patch) inside fuselage fuel tanks of the F - 111 aircraft for a cumulative period of not less than 60 working days while attached to a Deseal/Reseal section of 501 WG, over the period 1973 to 2000, **plus** those six personnel posted to Sacramento who completed training in Deseal/reseal procedures; and
- Personnel regularly disposing of Deseal/Reseal products by burning, in particular the Sealant Remover SR51 and SR51A, at the RAAF Base Amberley incinerator for a cumulative period of not less than 30 working days between 1976 and 1986.

INDIRECT INVOLVEMENT

- Personnel who worked inside body fuel tanks of the F-111 aircraft for extended periods of time for a cumulative period of between 10 and 29 cumulative working days, removing sealant and/or resealing the tanks. This category is exclusive to personnel employed in the F-111 Deseal/Reseal and Respray programs over the period 1977 to 1982, 1991 to 1993 and 1996 to 2000. The personnel involved include those involved in aircraft preparation, chemical Deseal/water-pick, hand cleaning, barrier application, sealant application, plumbing in, air (dry) checks and fuel (wet) checks. This did not include Motor Transport Drivers employed as Fuel Tank Drivers who may have been responsible for de-fuelling F-111 aircraft prior to Deseal/Reseal activities being undertaken;
- Personnel employed full time on the wing tank program actively removing and replacing sealant for a cumulative period of between 10 and 29 cumulative working days between 1985 and 1992;

- Personnel working on sealant rework (pick and patch) inside fuselage fuel tanks of the F-111 aircraft for a cumulative period of between 10 and 59 cumulative working days while attached to a Deseal/Reseal section of 501 WG, over the period 1973 to 2000;
- Personnel regularly disposing of Deseal/Reseal products by burning, in particular the Sealant Remover SR51 and SR51A, at the RAAF Base Amberley incinerator for a cumulative period of between 10 and 29 cumulative working days between 1976 and 1986;
- Fire fighters permanently posted to a Unit at RAAF Base Amberley and who were actively involved in burning bi-products from the F-111 DS/RS process (including the Sealant Remover SR51 and SR51A) at the fire pits for training and/or disposal purposes, for a cumulative period of not less than 60 working days during the period 1976 to 1994; and
- Personnel indirectly involved in DS/RS, for whom their normal place of work was the DS/RS air transportable ('rag hangar') Hangar or Hangars 255, 260, 277 and 278 and who provided direct support to those staff entering F-111 fuel tanks for a period of 60 cumulative working days. This does not include those personnel who may have regularly visited these hangars in the course of their duty.

Terms of Reference

The differences, and transitional arrangements, between the interim health scheme and the final Health Care Scheme.

Since the inception of the various Health Care schemes listed below, the various levels of medical treatment and counselling available confuse many Deseal/Reseal participants. There is an urgent need to address current entitlements under the various Group levels referred to above.

The F111 Deseal/Reseal Interim Health Care Scheme (IHCS)

This scheme was established on 8 September 2001. Treatment under the IHCS was offered to Group one participants and was for conditions that were identified by a panel of doctors, pending the release of the SHOAMP Report, as being reasonably related to involvement with the Deseal/Reseal programs. It continued to cover the cost of treatment until all merit based avenues of appeal had been exhausted in relation to a compensation claim. The IHCS was replaced by the SHOMP Health Care Scheme on 19 August 2005. All participants of the IHCS automatically were transferred to the SHOAMP Health Care Scheme.

SHOAMP Health Care Scheme (SHCS)

This scheme was established on 19 August 2005. Group one participants received treatment for specified conditions under SHCS until compensation was granted for that condition, or, all avenues of merit based appeal had been exhausted. The new arrangements provided health care treatment of those conditions for which a compensation claim was lodged. Health care is still available even if a compensation claim is rejected. The SHCS could only pay for treatment of conditions for which a compensation claim had been lodged by 20 September 2005. Counselling was also available as follows:

- Group one – unlimited counselling through VVCS plus up to three sessions of genetic counselling; and
- Group two – five counselling sessions plus three genetic counselling sessions.

SHOAMP Health Care Scheme (SHCS)

New arrangements were announced on 14 February 2007. Group one participants can continue to receive non-liability health care for their conditions after all merit-based avenues of appeal have been exhausted. Access the health care under these new arrangements will cease only if the condition has been accepted under a statutory compensation scheme.

Better Health Program

This program commenced on 14 February 2007. This program is a voluntary program that provides eligible participants with access to cancer screening procedures and disease prevention strategies with the aim of promoting a healthy lifestyle. The program covers colorectal cancer, melanoma, erectile dysfunction, depression and anxiety. This program only covers the cost of screening. It does not extend to the payment of treatment services.

The timing of cessation of access to the Health Care Scheme

The RSL is concerned as to what criteria were adopted for the determination of the access and cessation dates for the Program. It would be of benefit to all concerned to understand the reasoning behind the cessation date of 20 September 2005 and the reasons for a participant to lodge a compensation claim before 20 September 2005? Veterans would be grateful for this to be reviewed.

The range of treatment and health benefits provided under the Health Care Scheme;

These issues once again confuse many participants and are not well understood. Likewise, the Veterans request a review of the determination factors by the Department in finalising the treatment schedules and the subsequent health benefits

Whether the current Health Care Scheme is consistent with a range of treatment and health care benefits available to persons under other Health Care Schemes.

The Cancer and Health Screening and Disease Program has been currently funded to 2009. Veterans were anxious that the program continue and that other Health Care Schemes be examined for them.

***The adequacy of arrangements under the Health Care Scheme affected family members (including widows) of serving members; and
If the Health care Scheme is not considered to be an adequate response to the health support needs of participants and their families, consider and report on possible alternatives that are considered to be adequate in light of the findings of SHOAMP and other Health Care Schemes.***

Veterans seek additional sessions as the only support families (including widows) receive to date were up to five counselling sessions and three sessions of genetic counselling. Counselling was seen as a necessity in situations where people are suffering from stress related conditions and, in this situation, many workers and their families including widows feel they have been forgotten. It is suggested that a possible alternative for participants could be to issue a white card for treatment of specific disabilities.

The inquiry will consider the adequacy and equity of the financial element of the Ex Gratia Scheme and whether it was consistent with (1) the findings of SHOAMP, (2) the Health Care Scheme response (3) the Tier Definitions, and (4) one off payments to other veteran groups. The inquiry will consider, but not be limited to:

- ***Whether the lump sums available under the ex gratia scheme were appropriate;***

The League is of the opinion that the lump sum payments under the ex gratia scheme are insufficient in all cases. It is agreed that the \$40,000.00 one off ex-gratia payment recognised the special nature of the circumstances experienced by the Deseal/Reseal participants. However we are not in agreement with the two separate tier arrangement, i.e. Tier 1 and Tier 2. Eligibility.

Exposure is specific and we see this as an inequitable distribution of the ex-gratia payments. It currently depends entirely on how many cumulative days a person worked in the Deseal/Reseal section as to whether they are entitled to \$40,000 or \$10,000. It has no quantitative and/or qualitative dosages nor within any time frame.

The RSL would therefore question the rationale in the decision as to the cumulative number of days for one group and so many cumulative days for another group. As an example, paragraph 5 in the Tier 1 eligibility is exactly the same as paragraph 8 in Tier 2 eligibility. This would lead one to question the meaning, as to whether, a person who has worked in the Deseal/Reseal section for a few days, or perhaps only one day, and is diagnosed with some ailment by a medical practitioner which would prevent him from continuing to work in that area, would be eligible for the \$40,000 ex gratia payment. That person would be entitled \$40,000 as opposed to a person who spent 28 days exposure and then would only be eligible to receive \$10,000 if that person was subjected to the criteria of paragraph 8 of Tier 2, as one would only be eligible to receive \$10,000.

In the Deseal/Reseal section, not all personnel were servicing fuel tanks on a daily basis as some were operational in the area doing other duties and not Desealing and Resealing the aircraft fuel tanks. However due to the fact they were in the section they were entitled to the ex-gratia payment. This phenomenon could never be challenged due to the fact of rotational duties within the section and lack of records of who was undertaking which duty. Therefore we believe all those involved in the program were exposed and should be entitled to the one off ex-gratia payment of \$40,000 irrespective of how long they spent in the program.

Furthermore we question the ex gratia entitlement for pick and patch workers as stated in Tier 1 and Tier 2. Those persons who carried out sealant repairs (pick and patch) from 1973 to 2000 were eligible only if they spent in excess of 60 cumulative days doing such repairs while attached to a Deseal/Reseal section. We find this quite extraordinary and irreconcilable due to the fact a Deseal/Reseal section did not exist between 1973, and to the best of one's knowledge, late 1977 or early 1978. That is when the Deseal/Reseal section was formed at No 3 Aircraft Depot to carry out the complete Deseal/Reseal of all F111 aircraft fuel tanks... However several members carried out these repairs at 482 Maintenance Squadron and the two operational squadrons, Nos 1 and 6. It was a documented fact that the aircraft were leaking fuel from the time they arrived in Australia.

These particular members were subjected to entering fuel tanks on a daily bases to carry out fuel leak repairs. In doing so, they were subjected to not only the cramped positions and toxic sealants emitted within the tanks, which still had the plumbing and accessories fixed in place, making it therefore very difficult to manoeuvre, but were also required to operate in a toxic fuel fume environment.

We believe that by excluding the members who carried out pick and patch repairs in the maintenance and operating squadrons and ignoring their pleas for recognition is a great injustice to their service, the members themselves and their families by Government.

- ***Whether the lump sums available were appropriate given the findings of the SHOAMP;***

The previous paragraph refers to this matter.

- ***Whether the lump sums, when considered along with other benefits available under the Health care Scheme, were appropriate;***

One would dispute that the award of the ex gratia lump sum were appropriate, as the League believes that a one off ex gratia payment was given for a specific purpose as detailed above, principally based on exposure. It can not be considered and measured along with other measures such as benefits.

- ***Whether the lump sums available under the ex gratia scheme were appropriate, when considered along with the full range of benefits and compensation available under other Commonwealth or State statutory schemes.***

Unfortunately again we believe the lump sums available under the ex gratia scheme were inappropriate, when considered along with the full range of benefits and compensation available under other Commonwealth or State statutory schemes. The one off ex gratia payment was given for a specific purpose and should not be considered as an off set to any compensation benefits.

- ***Whether the lump sums, were consistent with the definitions of Tiers of participants;***

In this context the League strongly believes that these sums were inconsistent with the definitions of Tiers of participants. We recognise and recommend that the definition of a Deseal/Reseal participant for the purposes of the lump sum payment scheme should be reviewed because of the inconsistencies particularly Tier 2 participants item 1, 2 and 3.

- ***Whether the lump sums were consistent with other one-off payments made to veteran groups;
When assessing the question of adequate remedies whether regard should be given to the establishment of a dedicated administrative assessment and settlement scheme, and
If the lump sums available under the ex gratia scheme are not considered to be financially adequate, discuss what compensatory payment would be appropriate in light of the SHOAMP findings, other one off payments made to veteran groups, and the full range of benefits and compensation available under other Commonwealth and State statutory schemes or common law damages available under Australian law.***

The RSL is aware of Common Law Claims such as the Voyager Disaster, where common law damages were in the vicinity of \$400,000 plus. It further believes that civil claims to the Dust Disease Board were similar in concept and awards. Therefore taking these payments into consideration, the ex-gratia payment to the de-seal re-seal workers is definitely not proportionally adequate and is relying on the Service nature of the claimant to circumvent an equitable award.

The Inquiry will consider whether the overall handling and administration of ex gratia and compensation claims was appropriate, timely and transparent for both participants and their families. The enquiry will consider whether, but not be limited to:

It would be to the Leagues benefit to receive justifiable benchmarks upon which to respond and to consider any determination.

- ***Cross agency cooperation was effective;***

We believe cross Agency was reasonably effective.

- ***The documentation and records held by both Agencies as they relate to Deseal-Reseal activities was adequate;***

The RSL believes that the documentation and records held by both Agencies as they relate to Deseal/Reseal activities were inadequate. It has been noted on numerous occasions that several past RAAF members work records detailing their place of employment at Amberley during the Desealing/Resealing phase were not available. This may have been due to their work in the section not being recorded or misplaced. Long serving members of the ADF have difficulty in accepting this as being a logical explanation, for the non acknowledgement of former member's claims when proof beyond reasonable doubt, that the claimants were definitely involved in the program. The evidence that the records and documentation relating to Deseal/Reseal workers appeared inadequate as demonstrated during the Board of Inquiry.

- ***The standard of evidence required to substantiate a claim was reasonable and, if not, whether alternative standards of proof may be used when making eligibility determination;***

It would be of assistance if the above Reference were to be divided into two separate questions.

1. the standard of evidence required to substantiate a claim was reasonable and we believe it was reasonable; and
2. whether alternative standards of proof may be used when making eligibility determination. We would recommend that alternative standards should most definitely have been used to make an eligibility determination. However in several cases this equitable solution was ignored or not accepted as the truth.

- ***There has been equitable treatment of service personnel, public servants, civilian employees and contractors involved in Deseal – Reseal activities;***

The RSL has confined its submission to service personnel.

We believe civilian employees employed by contractors were subjected to the same exposure. However they were not part of the initial program which began in late 1977. Accordingly to the best of Ray Townsend's knowledge (a participant and referred to above), civilian contractors did not become involved until the late 1980s to early 1990s. It is understood that they certainly were therefore not involved with use of SR 51. This hazardous and poisonous mix was never used after October 1982. It was noted that when Ray Townsend was posted from Amberley to Sydney in 1985, no civilian contractors were engaged with the Deseal/Reseal project at that time.

- ***Staffing resources were adequate to produce a timely result;***

We are unable to comment on this issue.

- ***There were unreasonable delays in the process; taking into account the complex nature of issues; and***

We believe most strongly that there was an unreasonable delay in the process as a large volume of claims became stagnant at Department of Veterans' Affairs awaiting further investigation and determination.

- ***The overall handling and administration of ex gratia and compensation claims was appropriate and timely.***

The League is of the opinion that the overall handling of these complex issues were not well managed with the result that a further Inquiry was required to resolve inconsistencies and inequities.

Conclusion

The Returned and Services League of Australia regards the settlement of these outstanding issues as an important step in not only resolving an inadequate response from Government but also in encouraging future participation to the specialised trades and technologies offered with the Australian Defence Force.

We believe this Inquiry is timely and should finally recommend a conclusion to this difficult and hazardous consequence of Service.