



Australian Government

**GOVERNMENT RESPONSE TO
SENATE STANDING COMMITTEE ON
FINANCE AND PUBLIC ADMINISTRATION
REPORT**

**SUPERANNUATION CLAIMS OF FORMER AND CURRENT COMMONWEALTH PUBLIC SERVICE
EMPLOYEES**

INTRODUCTION

The Australian Government welcomes the report of the Senate Standing Committee on Finance and Public Administration (Committee) into the Superannuation Claims of former and current Commonwealth Public Service Employees. The Government notes the Committee's findings that the Department of Finance and Deregulation (Finance) has established an appropriate claims handling process for individuals who believe that they were incorrectly advised about their eligibility for Commonwealth superannuation.

The Government is committed to seeing the resolution of Cornwell-type claims managed systematically and rigorously in accordance with the *Legal Services Directions 2005*.

RESPONSE TO RECOMMENDATION

The Committee made one recommendation.

Recommendation 1

That the Department of Finance and Deregulation give consideration to a targeted information campaign through the national media and by issuing an all staff advice across the Australian Public Service, including agencies, to advise potential claimants of the process for handling claims.

Response

The Government supports the Committee's recommendation.

Since the High Court's decision on the Cornwell superannuation case in April 2007, there has been media coverage on the decision through local and national newspapers, solicitors, media releases, unions and Commonwealth agency websites. The unions that have advertised the potential for claims include the Community and Public Sector Union, Australian Services Union, Media Entertainment and Arts Alliance and the Australian Licensed Aircraft Engineers' Association.

A targeted campaign will notify potential claimants of their ability to register claims with Finance. Finance proposes to place information advertisements on Cornwell-type claims in local and national newspapers. Information will also be disseminated to relevant unions and an all staff advice issued across the Australian Public Service.

SENATOR'S MINORITY REPORT

The Independent Senator Nick Xenophon lodged a minority report with three recommendations.

Recommendation 1

That the Department of Finance engage in a widespread media and departmental campaign, with a view to notifying all potential claimants of their rights. Such a campaign should take into account the concerns expressed by the MEAA and others, and before the commencement of such a campaign there should be consultation with such stakeholders to maximise its effectiveness.

Response

The Government supports in principle Recommendation 1 of the Minority Report.

This recommendation is similar to the Committee's majority recommendation. A targeted campaign will notify potential claimants of their ability to register claims with Finance. Finance proposes to place information advertisements on Cornwell-type claims in local and national newspapers. Information will also be disseminated to relevant unions and an all staff advice issued across the Australian Public Service.

Recommendation 2

That the Department of Finance liaise with the Attorney-General's Department with a view to waiving the statute of limitations for Cornwell-type cases.

Response

The Government does not support Recommendation 2 of the Minority Report.

The Government considers the general waiver of the statute of limitations for Cornwell-type claims is inconsistent with the current Government policy embodied in the *Legal Services Directions 2005* and the *Financial Management and Accountability Act 1997*. However, Finance will continue to liaise with the Office of Legal Services Coordination in the Attorney-General's Department to obtain approval to set aside limitations-based defences or extend limitation periods where appropriate, on a case by case basis.

Recommendation 3

That a specialist tribunal be established to consider such claims in a cost-effective, streamlined and equitable manner. The model suggested by Snedden, Hall and Gallop should be considered as a template for such a tribunal.

Response

The Government does not support Recommendation 3 of the Minority Report.

The Government considers the current administrative processes in the assessment of Cornwell-type claims are appropriate to deal with claims in a cost-effective, streamlined and equitable manner. This view was supported by the Committee's majority report. The establishment of a tribunal would be costly and would not necessarily expedite the finalisation of claims, nor would it be an appropriate jurisdiction for the determination of legal issues, such as contribution from entities other than the Commonwealth.