Risky business: death and disability compensation in the ADF

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Abstract

- Publicly-funded compensation for death or disability for serving members of the Australian Defence Force is regulated by the *Military Rehabilitation and Compensation Act 2004* (the Act).
- Reservists in the Defence Health Service may have large private practice incomes coupled with high practice costs and low savings. Compensation under the Act is not designed to provide the kind of protection for business costs that can be purchased through private insurance.
- All ADF members should be aware of the compensation and rehabilitation provisions of the Act, and should consider private insurance to "top up" the benefits.
- Many private insurance policies specifically exclude the payment of benefits for death or disability in war or military service, which limits their value for ADF members.

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A previous Minister for Defence Industry, Science and Personnel described how she was "appalled that the shortages [of medical and dental officers in the Australian Defence Force] had been allowed to reach crisis level" after a briefing by the Surgeon General in 1997.[1] Concerns have been raised about compensation arrangements for deploying health staff. These issues have been difficult to resolve and have been documented in the public domain.[2] The Land Commander in 1999 was quoted as saying "ADF must recognise and accept the reality of the problem and the requirement to commit resources to resolve it".[3]

Subsequently, there have been significant changes to military compensation. The aim of this article is to examine the details of these changes. To do this we have compared the cost and extent of insurance recommended by an insurance broker with the compensation available through the *Military Rehabilitation and Compensation Act 2004* (Cwlth) for death or injury arising from active service in an area of war or civil disturbance.

We approached an independent insurance broker for mid-range recommendations on appropriate levels of insurance for four individuals (Box 1). Assumptions made included a dependent spouse, and two dependent children living at home and engaged in full-time study. The children are of ages compatible with the age of the parents, and the home mortgage in each case is estimated to be that which would be the usual maximum offered by Australian home lenders based on the income of a sole provider. The size of the current average Australian home mortgage is $216 338.[5] Although most civilian policies have a war or civil disturbance exclusion, we ignore this clause for our calculations. This is to allow a comparison between military compensation and what is recommended in civilian life.

The types of insurance recommended included Term Life Insurance (providing a lump sum payment on the occasion of the policyholder's death) and trauma insurance (paying a lump sum if the policyholder sustains a specified critical condition covered by the policy), and income protection (providing a monthly payment if the policyholder is temporarily unable to work) (Box 2).

Two scenarios have been postulated:

- Death of an ADF member on active duty; and
- Maximum permanent incapacity (quadriplegia) of an ADF member arising from active duty service.

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The *Military Rehabilitation and Compensation Act 2004*

This Act is intended to compensate current and former ADF members who are injured or suffer illness as a result of service after 1 July 2004. It also covers compensation for dependants of servicemen or servicewomen who died on or after 1 July 2004 as a result of service to the ADF. A second Act of the Commonwealth, the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*, empowers the Military Rehabilitation and Compensation Commission (MRCC) to determine and manage claims related to defence service under the *Safety and Compensation Act 1988* (Cwlth). The Defence member on the Commission is the Head of the Defence Personnel Executive. The Department of Veterans' Affairs provides the logistic support for the MRCC.

The MRCC:

- Determines acceptance of liability for service-related conditions, including payments of compensation, treatment and rehabilitation;
- Minimises time lost by service-related injuries; and
- Promotes research into prevention of injury and disease as well as rehabilitation.

Death benefits under the Act

Wholly dependent partners can elect to receive either tax-free periodic payments equivalent to the rate of a war widow's pension, or its lump sum equivalent, based on age.

Let us examine the specific case of a 45-year-old Reservist doctor who is killed on continuous full-time service. The following benefits would be payable to his fully dependent 42-year-old wife with two children aged 18 and 16 years living at home and engaged in full-time education:

- Death Benefit: $250.65 per week for life or $331 810.47 as a tax-free lump sum.
- Additional Death Benefit (death due to service): 0.9765× $108 214.27 = $105 671.23 (if the widowed spouse is younger than 40 years, the maximum amount ($108 214.27) is payable).
- Eligible Young Persons Tax-free Lump Sum Compensation: $64 928.56× 2 = $129 857.12.
- Financial advice: up to $1298.57.
- Funeral assistance: up to $4977.85.

Thus, the total initial lump sum payable is $573 615.24, which is substantially less than the civilian death benefit from the recommended insurance (Box 2).

The dependents will also receive the following ongoing benefits:

- Eligible Young Persons Education Assistance (living at home): $178.70 (16 year old) + $214.9 (18 year old) = $393.60 per week.
- Gold Card DVA for health benefits to widow and dependent children: $50.00 weekly (estimated value).

1: Characteristics of the four people used for our calculations

	Age	Annual salary[4]	Age of first child (years)	Age of second child (years)	Home mortgage
Clerk* (AO2 level 8)	30	$37840	3	1	$170 000
Nursing officer† (level 2 grade 4)	34	$56 000	7	5	$240 000
Non-specialist medical officer‡	34	$103 577	7	5	$350 000
Senior staff specialist§	45	$138 727	18	16	$400 000

*Equivalent to a corporal. † Equivalent to a Flight Lieutenant. ‡ Equivalent to a Squadron Leader. § Equivalent to a Wing Commander.

2: Recommended civilian insurance

	Death benefit	Trauma insurance	Income replacement	Total annual premium
Corporal/clerk				
Benefit	$634 047	$222 000	$2266 / month	
Premium	$707	$276	$496 / year	$1479
Flight lieutenant/nurse				
Benefit	$775 874	$183 500	$3505 / month	
Premium	$1 143	$335	$1448 / year	$2926
Squadron leader/non-specialist medical officer				
Benefit	$1 311 064	$484 000	$6474 / month	
Premium	$1 335	$852	$1213 / year	$3400
Wing commander/senior staff specialist				
Benefit	$1 804 994	$534 000	$8670 / month	
Premium	$3 968	$2474	$2940 / year	$9382

3: Payments ($) for severe injury of a former ADF member

	Senior staff specialist		Clerk	Nurse	GP
Payment	Lump sum	Weekly	Weekly	Weekly	Weekly
Permanent impairment	274 883.68	252.21	252.21	252.21	252.21
Incapacity*					
First 45 weeks	120 052.00†	2667.80	697.10	1078.40	1991.00
Ongoing if unable to work at all		2000.85	522.80	808.83	1493.60
Child payments (2)	129,857.12	142.84	142.84	142.84	142.84
Telephone		1.52	1.52	1.52	1.52
Pharmaceutical allowance		8.70	8.70	8.70	8.70
Household services		357.11	357.11	357.11	357.11
Attendant care services		357.11	357.11	357.11	357.11

* These are for economic loss if former member does not choose the Special Rate Disability Pension. Where superannuation is payable, the incapacity payments will be reduced. Payment is taxable, and amounts given are before tax. † Based on annual civilian salary of $138 727 per annum. If based on ADF salary and allowances, payment would be $117 868. GP = general practitioner.

- DVA Pharmaceutical Allowance for widow and dependent children: $2.90 × 3 per week = $8.70 per week.
- Telephone Assistance: $19.80 per quarter.
- For 12 weeks, the partner or if there is no partner, any dependent children are entitled to the amount of compensation being received before the former member's death.

Disability due to ADF service

For an ADF member who is severely injured (eg, blinded, quadriplegic, paraplegic) while on full-time service after 1 July 2004, the benefits payable are summarised in Box 3. If the impairment is assessed as 80 points or more (eg, quadriplegia) then all ADF members receive the same permanent impairment compensation (adjusted for age if taken as a lump sum),[6] regardless of the type of service (warlike or non-warlike).

The incapacity payment (for economic loss) is 100% of weekly salary for the first 45 weeks, then 75% of normal weekly earnings. Normal earnings may be either the ADF salary plus allowances at the time of the injury, or civilian earnings. This payment is taxable.

There is an alternative compensation scheme available for those who are unable to work more than 10 hours per week — the Special Rate Disability Pension (SRDP).[7] This is based on the Special Rate (Total and Permanent Incapacity) disability pension provided under the *Veterans' Entitlements Act 1986* (Cwlth), and has a maximum of $20 768.80 per year. The injured ADF member may choose whether to take the SRDP or incapacity payment. This decision is not easy as there are a number of other issues (such as tax) that need to be taken into account. For this reason a person given the choice to take the SRDP will be provided with financial advice of up to $1298.57 to assist with the decision.

Payment adequacy

The Commonwealth Government funds the Attendant Care Program for spinal injury patients. This provides for 34 hours of personal care and domestic assistance per week, at a rate of $36.90 per hour (Ms Bernice Daher, Accommodation and Care Manager, Paraplegic and Quadriplegic Association of New South Wales, Sydney, personal communication).

The outgoings for equipment for a quadriplegic person would include home modifications such as ramps, alterations to hallways and doorways, enlargements and modifications to the existing bathroom, installation of thermostatic controls and alarm systems (estimated to be at least $50 000). Other necessary items might include a power wheelchair ($12 000–20 000), mechanical hoist ($7000) or pressure mattress ($3000–4000). A capital outlay of $100 000 is a reasonable estimate.

Weekly incidental expenses would include disposable catheters, bags, antiseptic solution (annual government continence aid assistance subsidy, $470), regular physiotherapy, taxi fares (maximum per trip, $25 under the Taxi Subsidy Scheme) (Bernice Daher, personal communication). Access to these additional subsidies depends on the personal circumstances of the individual.

For civilians with the recommended trauma and income protection insurance, the weekly benefits payable (Box 2) would be $673.23 for the clerk, $965.27 for the nurse, $1877.05 for the non-specialist, and $2578.27 for the senior staff specialist. Access to additional payments such as the Attendant Care Program is means tested.

The MRCA, however, provides for outgoings such as these. Medical treatment would be provided through the provision of the Gold Card. This is issued for life and allows access to treatment for all conditions, not just those related to the injury. Additionally, the Gold Card allows access to ongoing nursing services as required, including provision of physiotherapy, taxi fares and so on, as described earlier. The outgoing for equipment required by a paraplegic such as ramps and other home modifications or other modifications to the person's car, and other requirements such as wheelchairs are also provided under the MRCA. There is no pre-determined limit to this funding, which is provided on advice from the person's treating doctors. These items are provided in addition to the payments listed in Box 3.

Private insurance

While a Permanent officer may have a mortgage on the family home, a self-employed Reservist may have many more practice-related debts on loans which may exceed $1 million. In addition, a self-employed Reservist may have ongoing costs, including wages for secretarial and nursing staff, rental for premises, leases on equipment, medical indemnity insurance (which may itself amount to $90 000–100 000 per year). It is important to note that former Reservists who were incapacitated while on continuous full-time service may have their civilian earnings instead of their ADF salary and allowances taken into consideration when calculating normal earnings and incapacity payments.[8]

One submission by a Reserve anaesthetist (PC) in 1997 indicated practice costs of $85 738 per year. At that stage he calculated that his widow would receive $250 000 as a lump sum and an indexed yearly payment of $29 071 after tax.

The Relative Value Study was a review of the General Medical Services Table of the Medicare Benefits Schedule, managed by the Australian Medical Association and Commonwealth Department of Health and Aged Care. One part of it was the Practice Costs Study,[9] which estimated practice costs as at end December 1999 for 26 specialties (Box 4).The estimated practice costs of a general surgeon were $130 255 excluding direct costs and medical indemnity, and $147 701 including medical indemnity. These figures are on a per full-time equivalent practitioner basis. Clearly, compensation based on a military salary is inadequate to meet these costs.

4: Annual costs per doctor ($) to deliver 100% MBS activity by specialty

Specialty	Practice cost excluding direct costs and PII	Total PII	Total general overhead*
Anaesthetics	54 083	12 995	67 078
Cardiothoracic surgery	112 582	19 087	131 669
ENT surgery	167 515	18 368	185 883
General medicine	128 095	4 823	132 918
General practice†	125 002	2 328	127 330
General surgery	130 255	17 446	147 701
Intensive care	42 493	6 976	49 469
Neurosurgery	129 109	27 769	156 878
Obstetrics and Gynaecology	139 040	30 292	169 332
Ophthalmology	214 340	18 277	232 617
Orthopaedic surgery	134 924	26 928	161 852
Urology	133 557	18 227	151 784
Vascular surgery	131 453	17 260	148 713

Extracted from the Practice Costs Study.[9] PII = Practice indemnity insurance; includes both procedural and overhead PII. * Total includes PII but not direct costs. † Practice costs study produced several estimates for general practices of different sizes; this is the largest of those estimates.

In February 1999, the Australian Medical Association (AMA) suggested that the ADF should guarantee the death and incapacity benefits of private insurance cover where that insurance company disallowed a claim on the grounds of an exclusion clause for acts of war or civil disturbance or conditions specifically related to military service. The AMA suggested that the preferred means of doing this would be with an agreement with the insurance industry for a re-insurance fund, which would cover all cases, with premiums paid by the ADF. Alternative suggestions were for the ADF to take out a policy with a particular insurance company or for the ADF to self-insure and pay from its own funds for shortfalls in privately insured death and incapacity payments. In March 1999, the Review of the Military Compensation Scheme was released. Among its key recommendations were that:

- remuneration packages flow into the income support provisions of the military compensation arrangements; and
- a suitable form of cover is arranged under the military compensation scheme or through a reinsurance arrange-

ment sponsored by Defence to cover gaps between normal civilian income and military salary.

On 20 April 2004, Asteron Life Limited issued a new Term Life Insurance with Optional Critical Conditions Benefit for serving members of the ADF, including Active Reserve members. Defence Health Limited promoted it. The policy contains no war exclusion clause, providing it is issued before any notification of deployment to a warlike operation. The premiums are lower than those offered to civilians, in recognition of the high fitness and medical status required of deploying ADF members. For Active Reservists the ADF requires annual fitness assessments and periodic medical examinations. The policies are portable following discharge from the ADF, albeit at higher civilian rates. With adequate notification, Term of Life cover could be increased to $400 000 after discharge while medically fit. The premiums were at a flat premium rate irrespective of age up to a maximum of 60 years of age. Benefits could be index linked.

Conclusion

We have attempted to compare recommended civilian levels of insurance with what is available through military compensation.

Many members of the ADF, both full-time and reserve, would hold civilian insurance policies. A major problem with most of these policies is an exclusion clause for claims arising from injury or death resulting from war and civil disorder. Some policies do not have such a clause and are attractive to ADF members. However, the Asteron product lacks any component of income protection. Nevertheless it would seem that death benefits are likely to exceed those available through the Military Rehabilitation and Compensation Act.

Reservists who have full-time civilian employers may be able to access ongoing benefits, particularly sick leave. Those who have significant business overheads (eg, medical specialists in private practice) have more complex insurance requirements and need skilled advice as well as a range of flexible products to address this situation.

Finally, it is important to stress that all ADF members ensure that their affairs are in order before deploying. In some cases where death benefits available under the Military Rehabilitation and Compensation Act are deemed inadequate, then commercial products may be necessary to top up that ADF cover. It would seem important for all deploying ADF members to be made aware of those commercial options. At its highest levels, the ADF is working to ensure that members are assisted as much as possible.

Older members may have significant savings and superannuation, may own their own home and have children who are less dependent. Reserve specialist medical officers who are newly qualified and in private practice are particularly vulnerable, as they have high practice overheads and minimal savings and superannuation. In terms of supply of specialist medical staff in the future, these younger specialists are an important group to recruit.

For permanent members of the ADF, the issues are somewhat different. Although military compensation covers work-related activities, private cover may be considered prudent for illness or injury that is not work-related.

One way to address this problem may be an expansion of commercial products without a war or civil disturbance clause. This could be achieved with military support. Some policies such as Defence Health's Term Life do not have a war clause (subject to conditions) and are attractive to ADF members. The special premiums recognise the high fitness levels required of Permanent and Reserve ADF personnel and are lower than those offered to civilians. Provision for the cost of these policies could be incorporated into military pay and conditions. This would allow flexible insurance arrangements, which would cover the wide variety of defence force members' situations.

Competing interests

None identified.

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