The Auditor-General
Audit Report No.46 2012–13
Performance Audit

Compensating F-111 Fuel Tank Workers

Department of Veterans' Affairs
Department of Defence

Australian National Audit Office

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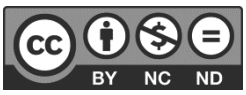

Australian National Audit Office

Canberra ACT
18 June 2013

Dear Mr President
Dear Madam Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Veterans' Affairs and the Department of Defence with the authority contained in the *Auditor-General Act 1997*. I present the report of this audit to the Parliament. The report is titled *Compensating F-111 Fuel Tank Workers.*

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—http://www.anao.gov.au.

Yours sincerely

Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Abbreviations

AD	Aircraft Depot
ADF	Australian Defence Force
ADR	Alternative Dispute Resolution
AGS	Australian Government Solicitor
Assistant Secretary	DVA Assistant Secretary Case Escalation/MRCA Review
BOI	Board of Inquiry
CFMS	DVA Complaints and Feedback Management System
Coxon Study	*Psychological Functioning in Partners and Spouses of Deseal/Reseal Personnel*
Defence	Department of Defence
DVA	Department of Veterans' Affairs
DWHSC	Defence Work Health and Safety Committee
ESOs	Ex-Service Organisations
HSR	Health and Safety Representative
JSC	Joint Standing Committee on Foreign Affairs, Defence and Trade
L&D Framework	DVA Learning and Development Framework
MoU	Memorandum of Understanding between Defence and DVA
MRCA	*Military Rehabilitation and Compensation Act 2004*

MRCC	Military Rehabilitation and Compensation Commission
MSCO	Member Support Coordination Office
NADRAC	National Alternative Dispute Resolution Advisory Council
OH&S	Occupational Health and Safety—see WH&S
OMOH Project	Occupational Medicine Occupational Hygiene Project
PPE	Personal Protective Equipment
PIN	Provisional Improvement Notice
Program Guidelines	DVA Businessline: Policies and procedures for processing compensation claims submitted by F-111 Deseal Reseal workers, issued in January 2012
RAAF	Royal Australian Air Force
RSL	Returned and Services League of Australia
SHOAMP	Study of Health Outcomes in Aircraft Maintenance Personnel
SHOAMP HCS	Study of Health Outcomes in Aircraft Maintenance Personnel Health Care Scheme
SMO	Senior Monitoring Officer
SRCA	*Safety, Rehabilitation and Compensation Act 1988*
The government response	*The Government Response to Recommendations from the Parliamentary Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*
The JSC report	*Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*
The Protocol	Protocol for Managing the Provision of Advice to Clients at Risk of Self-Harm

US	United States of America
VEA	*Veterans' Entitlements Act 1986*
VVCS	Veterans and Veterans Families Counselling Service
WG	Wing Group
WH&S	Workplace Health and Safety, a new term to replace OH&S
WH&S Act	*Work Health and Safety Act 2011*

Summary and Recommendations

Summary

Introduction

1. The F-111 strike and reconnaissance aircraft was an important part of Australia's strategic defence for almost 40 years due in part to its long-range capacity. To achieve greater flying distances, the F-111 maximised fuel storage differently to many other aircraft by storing fuel in numerous compartments instead of using fuel bladders.[1]

2. Throughout the aircraft's life, the F-111's fuel tanks required continuous maintenance to enable the aircraft to remain operational. Within three months of the delivery of 24 F-111 aircraft in 1973, the deterioration of the fuel tank sealant caused major fuel leak issues. The leaking fuel tanks, combined with the F-111's unique fuel storage system, meant that maintenance workers undertook repair work in hazardous occupational settings not previously experienced with other Royal Australian Air Force (RAAF) aircraft types.

3. To address the fuel leaks, four formal deseal/reseal maintenance programs were conducted between 1977 and 2000 at the RAAF Base at Amberley in Queensland. In addition to the formal deseal/reseal programs, between 1973 and 2000, continual flight-line repairs, known as Sealant Rework, or 'pick-and-patch' repairs[2] were conducted. The 'pick and patch' work involved the physical removal of the tank sealant, with workers entering the fuel tanks to use dental picks and other tools, and then resealing the area around the leak. The workers undertook the activity as one of a number of functions, and did not work in the fuel tanks as their primary task.[3]

4. In January 2000, the RAAF ceased F-111 fuel tank maintenance after concerns were raised at Amberley airbase about adverse health effects reported by workers, including: skin rashes, gastro-intestinal problems, headaches, fatigue and loss of memory. Concerns over the adverse health effects

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1 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a just outcome: Report from the Inquiry into RAAF F-111 deseal/reseal workers and their families*, Canberra, June 2009, p. 5.

2 ibid., p. 16.

3 As well as workers directly engaged in fuel tank repairs, others were exposed to the chemicals used. They were involved in handling and incinerating sealants, solvents and contaminated fuel; and worked within or disassembled the Amberley 'rag hangar'—a canvas hangar where deseal/reseal activities occurred.

experienced by F-111 fuel tank maintenance workers and their families gave rise to a range of inquiries and support measures by the Australian Government, administered variously by Defence[4] and the Department of Veterans' Affairs (DVA). These included:

- a RAAF Board of Inquiry (BOI) which was commissioned in July 2000. It examined the four formal deseal/reseal programs and reported in September 2001;
- an Interim Health Care Scheme (IHCS) established by Defence in September 2001. The IHCS provided health care for F-111 fuel tank maintenance workers for specified conditions pending completion of the Study of Health Outcomes in Aircraft Maintenance Personnel (SHOAMP). The SHOAMP reported in 2004 and found an association between deseal/reseal work and a range of health conditions such as anxiety, depression, memory impairment, erectile dysfunction, and an increased risk of cancer;
- a new Health Care Scheme (the SHOAMP HCS) and Better Health Program, which commenced in August 2005 for workers who had worked on the four formal programs or related activities. The Government also provided access to counselling;
- the acceptance of 31 health conditions identified as related to F-111 fuel tank maintenance work, under subsection 7(2) of the *Safety, Rehabilitation and Compensation Act 1988* (SRCA). DVA accepted liability if it determined that a claimant was eligible, and was diagnosed with any of the 31 conditions; and
- payments of $10 000 and $40 000 have been available since August 2005 under the F-111 ex gratia payment scheme, to F-111 maintenance workers in the four formal deseal/reseal programs or associated duties.[5]

5. In response to ongoing concerns about the treatment of former fuel tank maintenance workers and their families, including those involved in 'pick and patch work', the Joint Standing Committee on Defence, Foreign Affairs

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[4] The Defence portfolio consists primarily of three organisations: the Department of Defence (headed by the Secretary of Defence), the Defence Materiel Organisation (headed by its Chief Executive Officer), and the Australian Defence Force (which consists of the Navy, Army and Air Force, and is headed by the Chief of the Defence Force). These organisations work together and are known as Defence (or the Defence organisation).

[5] Workers who had performed 'pick and patch' work in F-111 maintenance squadrons were not entitled to the ex gratia payment and compensation arrangements outlined in paragraph four.

and Trade (JSC) conducted an inquiry and tabled the report *Sealing A Just Outcome: Report from the Inquiry into RAAF F-111 deseal/reseal workers and their families* (the JSC report), in June 2009. The JSC report made findings relating to health and compensation issues surrounding F-111 fuel tank maintenance workers and their families. The report also commented on the support measures introduced by the Australian Government to that time, including the F-111 ex gratia payment scheme.

6. The Australian Government accepted 14 of the 18 recommendations put forward by the JSC, and in the May 2010 Budget, the Government announced a further $55 million[6] support package over four years in response to the JSC's report. The package included:

- expansion of the definition of eligible workers used in the 2005 F-111 ex gratia payment scheme—enabling an estimated additional 2400 F-111 'pick and patch' fuel tank maintenance workers and other tradespeople to access compensation and healthcare under subsection 7(2) of the SRCA;
- the development of new guidelines which allowed the use of statutory declarations as proof of eligible service, in cases where records were inadequate or non-existent;
- a commitment to reviewing prior cases where a statutory declaration had been rejected in determining an ex gratia payment;
- measures to enable family members to receive additional counselling support;
- reopening the Study of Health Outcomes in Aircraft Maintenance Personnel Health Care Scheme (SHOAMP HCS) to new applicants, by abolishing the 20 September 2005 closing date for registering with the Scheme;
- removing the requirement which had excluded the estates of workers who died before 8 September 2001 from applying for the F-111 ex gratia payment;
- the development of a new DVA and Defence joint website which would provide information and assistance to potential claimants; and

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[6] The actual Budget measure was $56 872 000, with $2.2 million allocated for the year 2009-10: Australian Government, *Portfolio Budget Statements 2010–11, Department of Veterans' Affairs, Budget Related Paper No. 1.5B*, pp. 22–24.

- the appointment by DVA of a Senior Monitoring Officer (SMO) to, amongst other tasks, report to government on the implementation of the support package.

7. DVA has responsibility for implementing 10 recommendations from the Australian Government's response to the JSC report, while Defence has responsibility for three recommendations. Responsibility for one recommendation is shared by the departments. DVA's responsibilities relate to facilitating access to the package of support measures, including health care, counselling and access to simplified compensation arrangements. Defence has sole responsibility for a broader program of work addressing Australian Defence Force (ADF) workplace health and safety (WH&S) issues, intended to avoid a recurrence of the circumstances facing the F-111 sealant workers. Defence and DVA share responsibility for the development of a website targeting fuel tank workers and their families, and work together to process initial applications to determine eligibility for support under the package.

8. Implementation of the package began two months before the announcement of the Government's response in May 2010, and is funded to June 2014. As at January 2013 overall direct expenditure has been $15.5 million, which is less than anticipated largely due to a lower than expected uptake of the program by potential beneficiaries.[7]

Audit objective and scope

9. The objective of the audit was to assess the effectiveness of DVA's and Defence's administration of the Australian Government's $55 million support package announced in the May 2010 Budget for former F-111 fuel tank maintenance workers and their families. The audit examined the implementation of the 14 agreed recommendations in the *Government Response to the 2009 Parliamentary Inquiry into the F-111 deseal/reseal issues* (the government response), which formed the basis of the May 2010, F-111 support package.

[7] Department of Veterans' Affairs, 'Fifth progress brief on the implementation of the Government response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal workers and their families', 6 February 2013, p. 3.

Audit criteria

10. The criteria used to assess DVA's and Defence's performance against the audit objective were:

- DVA and Defence have effectively progressed the implementation of the $55 million package of support for former F-111 fuel tank maintenance workers and their families;
- DVA has implemented effective processes to promote access to, and review eligibility for, the expanded F-111 support arrangements;
- DVA has implemented effective processes to support former F-111 fuel tank workers claiming health care services, compensation and other benefits; and
- DVA and Defence communicate with the F-111 fuel tank maintenance community, monitor claims for late onset conditions, conduct further research, and provide reports as required, in order to effectively administer the support package.

Overall conclusion

11. Over a service life of almost 40 years, the deterioration of sealants in the F-111 aircraft's fuel tanks gave rise to a continuous resealing process which exposed workers to potentially hazardous working conditions, often within the fuel tanks themselves. Concerns over the health effects reported by workers and their families resulted in a variety of support measures by the Australian Government between 2000–2005, and an important parliamentary inquiry which made 18 recommendations on the way forward in 2009. To give effect to the 14 inquiry recommendations accepted by the Australian Government, a $55 million support package was announced in the May 2010 Budget, to be implemented over four years by DVA and Defence.

12. To date, DVA and Defence have made effective progress in implementing the Government's 2010 package of support for F-111 fuel tank workers and their families. Eleven of the 14 recommendations, relating to enhanced access to support and compensation, and a review of training for DVA staff, have been implemented. Two further recommendations, relating to the provision of senior oversight and expert advice within DVA of its assessment process for claims eligibility, and Defence's reporting to the JSC on the progress of litigation in F-111 common law cases—have been substantially implemented. However, there remains scope to strengthen the oversight of

DVA's claims processing and aspects of decision-making relating to claims, a process which DVA and Defence commenced during the course of the audit. A key threshold recommendation for Defence, relating to ADF capability in occupational medicine and a review of its workplace health and safety practices, remains partially implemented and is likely to take some time and additional resources to fully implement.

13. By way of background, DVA and Defence acted quickly after the May 2010 Budget announcement, to communicate with potential applicants on accessing the enhanced support package. The departments launched a dedicated website on the evening of the government announcement and followed-up with a range of other communication activities.[8] The departments had undertaken effective planning in the months preceding the announcement, and were also in a position, within a relatively short period after the announcement, to begin the review of previously unsuccessful claims[9] and to accept new applications under the enhanced arrangements for support and compensation.[10]

14. Under the previous ex gratia payment scheme for F-111 workers, which had operated from 2005 to 2010[11], DVA had determined that 762 people were eligible for health care and compensation. Since the May 2010 government response, DVA has applied an expanded definition of eligibility which has resulted in a further 747 people becoming eligible for health care and compensation.[12] The process, known as Tier classification[13], was intended to enhance workers' access to health care, counselling and compensation. DVA established a generally effective process to assess new claims and to review previously unsuccessful claims, facilitated by a dedicated F-111 processing team of experienced staff who were involved in the 2005–2007 support measures.

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8 In doing so Defence and DVA implemented Recommendation 15.

9 Relating to Recommendation 7.

10 Relating to Recommendations: 1,2,8,9,10 & 12.

11 DVA advised that a very small number of cases continued to be determined from 2007 until 2010.

12 This doubles the number of people eligible for health care and compensation: in total since 2005, approximately 1500 fuel tank workers have achieved Tier classification. This represents 48 per cent of the estimated 3100 potentially affected people.

13 DVA, with the support of the RAAF, determines eligibility for health care, compensation and the ex gratia payment through a Tier classification process which examines and considers the applicant's F-111 fuel tank maintenance claims and history.

15. In examining the processing of claims, the ANAO identified deficiencies in aspects of decision-making in 23 per cent of its sample of 47 new and reviewed cases assessed by DVA and the RAAF, relating to: the recording of evidence, the consideration and weighing of evidence, and general record keeping. While such shortcomings do not necessarily invalidate DVA's decision-making in particular cases, DVA and the RAAF acknowledged, after these matters were drawn to their attention by the ANAO, the need to address the identified shortcomings in the decision-making process and will amend the relevant practices and program guidelines. However, while this approach would improve decision-making for future cases, it does not directly address potential weaknesses in decision-making relating to previously assessed cases. Accordingly, DVA has agreed to re-examine, in consultation with the RAAF, some of the decisions where the application was unsuccessful—such as those involving 'usual place of duty' (discussed further in paragraph 17) or where significant inferences were drawn from the evidentiary material available—and if the evidence supports a change of decision, DVA has advised it will remake the decision.

16. The ANAO also identified scope for improvement in DVA's approach to the reconsideration of decisions. Since May 2010, DVA has progressively improved its approach to the reconsideration of decisions, and now offers reconsideration where the applicant is dissatisfied with the decision. While this approach is consistent with better practice, until recently DVA had not communicated this option to applicants.

17. Further, the ANAO observed a lack of clarity in the key technical definition used to determine certain workers' 'usual place of duty' for claims purposes—specifically those who had not entered fuel tanks but who had nonetheless worked in locations which may have exposed them to hazardous conditions. There would be merit, given the importance of the definition in the claims process, in DVA seeking advice from the Military Rehabilitation and Compensation Commission (MRCC) to obtain a more precise definition of 'usual place of duty'.

18. The Australian Government's response to the JSC report acknowledged that implementation of the enhanced package would be facilitated by a review of DVA staff training to raise the standard of client service, the provision of expert advice within DVA by a Senior Monitoring Officer (SMO), and formal oversight of implementation by the SMO. DVA has undertaken a review of training and has rolled out a revised training program which includes training in decision-making and client support. However, a significant aspect of the

SMO role intended to support staff and improve client service—the provision of expert assistance to DVA processing staff as a means of quality assurance—was undertaken as a minor part of the role. This represents a missed opportunity as the bulk of the application assessment process has now been completed.

19. For Defence and the ADF in particular, a threshold issue—considered in the 2001 BOI report on the sealing programs and the 2009 JSC report—was how to avoid a recurrence of the circumstances faced by the F-111 fuel tank workers. The Government accepted the JSC's recommendation that: the ADF expand its internal capability in occupational medicine as a matter of some urgency; and that a review of practices in handling occupational health and safety (now known as workplace health and safety) matters within the ADF be conducted to respond to a range of 'structural and cultural issues' identified in the JSC report and the earlier BOI report.[14] While Defence has acknowledged the importance of addressing certain cultural attitudes which can impact on WH&S—including a pervasive 'can-do' attitude within the ADF[15]—and has implemented a range of specific initiatives, the recommendation remains partially implemented. Defence has appointed an additional senior physician in occupational medicine, but a further ADF position remains vacant and Defence has recognised internally that there is scope to further develop this capability. Defence is also in the process of employing 19 additional specialist staff in its central WH&S Branch to undertake WH&S audits, incident investigations and to augment its advice and support role; and the senior Defence WH&S committee has expressed the intention that Defence adopt a more proactive approach to WH&S. While Defence has continued to make investments in WH&S since 2010, fully addressing the acknowledged capability gap would require a further investment in WH&S workforce and skilling—a matter for decision by Defence, and potentially the Government.

[14] Recommendation 17 of the JSC report stated: 'That the ADF expand its internal capability in occupational medicine as a matter of some urgency. That a review of current practices in handling OH&S matters within the ADF be conducted to amongst other things, respond to the structural and cultural issues identified in the BOI and by Professor Hopkins'.

[15] The JSC drew attention to several structural and cultural issues which were identified by the BOI as arising in the F-111 context: the reliance on contracted medical personnel; the relative powerlessness of the aircraft maintenance workers; the overreliance on, and the problems with, inadequate personal protective equipment; the RAAF's 'can-do' attitude; and the relative importance of military platforms over workers' safety (see paragraph 5.10).

20. The ANAO has made one recommendation to DVA about seeking advice from the MRCC on refining the existing definition of 'usual place of duty' as employed in the claims determination process.

Key findings by chapter

Agency implementation and communication arrangements (Chapter 2)

21. Implementation of the four-year F-111 support package is in its third year. Direct expenditure from 2010 to January 2013 has been $15.5 million, $3.5 million of which was departmental expenditure. DVA and Defence advised that the expenditure on compensation and health care was lower than anticipated, due to a lower than expected client take-up. However, DVA has projected that expenditure will increase as outstanding Tier applications and compensation claims are determined.

22. DVA has put in place the key elements necessary to support effective implementation of the F-111 support package. The department effectively planned for implementation by developing and documenting a Project Plan, and established governance arrangements to guide its internal administration and co-ordinate its activities with Defence—including the development and later refinement of the relevant F-111 Schedule of the Memorandum of Understanding (MoU) between the departments. The MoU sets out the departments' respective responsibilities and communication arrangements.

23. DVA established a dedicated F-111 Tier and claims processing team; a specially tailored approach which was adopted to facilitate the processing of applications for F-111 Tier classification, and for compensation claims and benefits. The team consisted of experienced staff who were involved in the 2005–2007 F-111 support measures. There was however a delay, until January 2012, in developing comprehensive Program Guidelines to direct staff in processing applications for Tier classification, the department instead relying on various instructions from May 2010. The delay occurred notwithstanding concerns expressed by the Commonwealth Ombudsman in 2009, that DVA did not have in place documented policies for assessing and determining F-111 claims.

24. The DVA Project Plan identified a risk that RAAF staff may not be adequately trained to assess applications under the expanded package, potentially leading to incorrect or inconsistent decisions. The action identified to ameliorate the risk was to provide appropriate staff training. However,

formal training in areas such as administrative decision-making, evidence handling and record keeping has not been provided until recently.

25. The JSC recommended, and the Government agreed in its response, to appoint a senior person—the SMO—to oversee the implementation of all the recommendations and to provide expert assistance to DVA in processing claims for Tier classification. However, due to the allocation of duties between a DVA Assistant Secretary and the SMO, the SMO provided only limited oversight and expert advice to the Tier processing teams. The SMO role was restricted to coordinating the reporting to government and monitoring claims for emerging trends in health conditions related to F-111 fuel tank maintenance. As a consequence, an opportunity has been missed for the SMO to provide quality assurance for the investigation and evidence-handling work undertaken by Tier processing teams.

Client access to support and compensation (Chapter 3)

26. The ANAO's analysis of 47 Tier classification cases and eight reviewed cases identified a lack of clarity and subsequent difficulty in the interpretation of a key term used to assess eligibility for some of those who did not enter F-111 fuel tanks—the 'usual place of duty'—and there would be merit in DVA seeking further guidance from the MRCC on the definition and application of this term.

27. The ANAO also observed examples of cases that showed inadequate consideration of evidence, documentation of reasons for decisions, and record keeping. DVA and the RAAF acknowledged that there have been some shortcomings with documentation of evidence gathering, evidence weighing, drawing of inferences from facts, and referencing technical information where used. While such shortcomings do not necessarily invalidate decision-making in particular cases, and DVA and the RAAF have advised that the incomplete implementation of these processes has not affected the individual Tier decisions, DVA will review certain classes of the unsuccessful Tier classification cases, and has also agreed to further improve relevant processes and documentation, including the Program Guidelines.

28. DVA considers that the Tier classification decision is a decision under the F-111 ex gratia payment scheme and that no formal review rights exist for applicants. Notwithstanding this position, DVA has over time developed an approach which allows for the review or reconsideration of a Tier classification decision. In May 2010, DVA advised unsuccessful Tier applicants that they

could seek review of the decision-making process via the Commonwealth Ombudsman, albeit not a review of the decision itself. In June 2011, DVA revised its position and began advising unsuccessful Tier applicants that DVA would reconsider the claim if the claimant could provide additional evidence. In January 2013, DVA again revised its approach and now offers a reconsideration upon request. While DVA's approach has evolved, the department has not, until recently, clearly informed applicants that it will reconsider a decision upon request by the applicant, and there would be merit in doing so.

Further support for F-111 fuel tank workers and their families (Chapter 4)

29. DVA has published and promulgated to its staff a *Protocol for Dealing with Clients at Risk*. DVA has also redeveloped its approach to, and provision of, staff training through a revised Learning and Development Framework. The framework includes online training and new courses on: administrative law, decision-making, and managing clients with mental health issues, which were rolled out in 2012 and 2013.

30. Since the introduction of the F-111 support package, DVA has provided a significant range of further support services to former F-111 maintenance workers. Through the Veterans and Veterans Families Counselling Service (VVCS), DVA has developed and delivered a specific F-111 Lifestyle Management Program for F-111 fuel tank workers and their partners, and has increased their utilisation of other VVCS counselling services. The F-111 Lifestyle Management Program has been well received by course participants.

31. DVA has sensitively managed the relationship with key stakeholder groups, in particular the Deseal/Reseal Support Group. The key stakeholder groups consulted by the ANAO reported an effective and collaborative relationship with the DVA and RAAF specialist Tier classification and compensation teams, and advised that they have not received complaints from their members about the implementation of the Government's response.

Implementing the broader Defence recommendations and overall outcomes (Chapter 5)

32. Defence continues to grapple with the issue of how to avoid a recurrence of the circumstances faced by the F-111 fuel tank workers; an issue considered by the 2001 BOI and the 2009 JSC report. The senior Defence WH&S committee has stated an intention to improve Defence's WH&S

capability so that it can address WH&S issues proactively, rather than reactively—which is Defence's current (self-assessed) situation.[16] Achievement of a proactive WH&S stance across Defence's Services and Groups is dependent upon further and significant investment in staff training, additional specialist staff, and a focus on the cultural change proposed by the BOI and JSC.

33. Defence has undertaken significant developmental and preparatory work as part of the Occupational Medicine Occupational Hygiene Project (OMOH Project), and has begun to take some steps under a Shared Services model to deliver a centralised WH&S audit function and strengthen its ability to provide advice to command. However, as Defence WH&S delivery transfers from the central OMOH Project to Business as Usual in Defence Groups and Services, the risk remains that WH&S capability, sufficient to bridge that gap, will not be developed.

34. Defence continues to support research through the Jet Fuel Exposure Syndrome Study which is being undertaken by Professor Bowling of the Mater Medical Research Institute. This study aims to determine if there is a relationship between exposure to jet fuel/solvents during F-111 fuel tank maintenance work and mitochondrial genetic changes. Should this work identify effective prevention measures to protect people exposed to such fuels, it would have potential benefits outside of Defence.

35. As DVA and Defence enter the fourth year of implementing the enhanced package of support for F-111 workers and their families, there would be merit in DVA conducting a post implementation review in cooperation with Defence, to understand the components of the package and implementation approach that have worked well and those aspects where there was scope for improvement.

[16] The Defence Occupational Health and Safety Maturity Model is a road map for the improvement of Defence's safety performance and was endorsed by the Defence WH&S Committee in 2009. The model has five levels with 'Reactive' as the lowest level and 'Leading' as the highest level. Defence aims to achieve the Proactive Level—Level 3. Department of Defence, Defence Occupational Health and Safety Management System: *DOHSMS Maturity Model—Guide for commanders and managers*, November 2006.

Summary of agency responses

Department of Veterans' Affairs

36. DVA agrees with the recommendation made in the ANAO report, acknowledging that clarification of the terms `usual place of duty' and `direct support' would assist with the interpretation of some of the Tier categories. DVA will work with the Royal Australian Air Force to further clarify these terms for the Military Rehabilitation and Compensation Commission's consideration.

37. DVA appreciates the ANAO's recognition that, overall, the implementation of the F-111 support package has been administered effectively. DVA is committed to providing a quality service for F-111 fuel tank maintenance workers and their families and welcomes the ANAO's review of its services to this cohort. Several of the ANAO's suggested improvements have already been made, with other suggested improvements in progress. These will help ensure that DVA continues to meet best practice procedures in the administration of the F-111 programs.

Department of Defence

38. Defence acknowledges the findings contained in the audit report on Compensating F-111 Fuel Tank Workers, and notes there are no Recommendations for Defence. Defence appreciates the value of the audit process and continually seeks opportunities for improvement.

39. Defence welcomes the ANAO's observations on its progress in increasing Defence's Work Health and Safety capability, and particularly in regards to Occupational Medicine and Occupational Hygiene. Defence has learned from the F-111 Deseal/Reseal experience and is continually building its safety culture; and, through leadership and individual commitment, Defence aims to ensure no person will suffer a serious preventable work related injury or illness.

Recommendations

Recommendation No. 1 Paragraph 3.35

The ANAO recommends that DVA seek advice from the Military Rehabilitation and Compensation Commission in order to obtain a more precise meaning of the terms: 'usual place of duty' and 'direct support', which are employed in the Tier definitions for Categories 7 and 8, and are used to determine the eligibility for support for people who worked in the hangars where F-111 fuel tank maintenance was performed.

DVA response: *Agreed*

Audit Findings

1. Introduction

F-111 fuel tank maintenance and health outcomes

This chapter provides background information on the issues relating to adverse effects experienced by F-111 maintenance workers and the government's response to those issues. It also outlines the audit objective and approach, and the structure of the report.

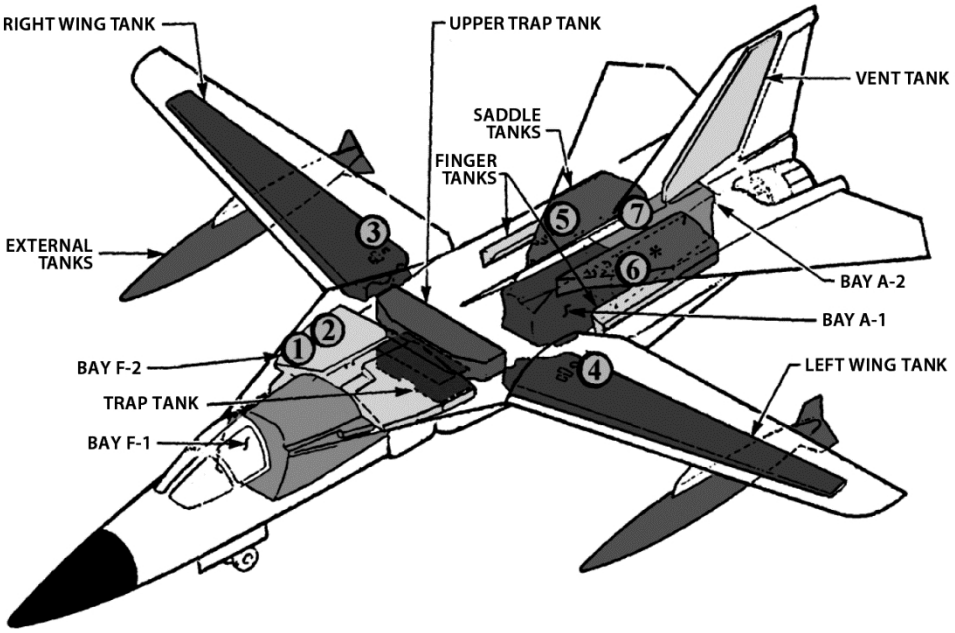
1.1 In 1973 the Australian Government took delivery of 24 F-111 aircraft from the United States Air Force. The F-111 strike and reconnaissance aircraft was an important part of Australia's strategic defence for almost 40 years due in part to its long-range capacity. To achieve greater flying distances the F-111 maximised fuel storage differently to many other aircraft by storing fuel in numerous compartments instead of using fuel bladders.[17]

1.2 Within three months of delivery, the deterioration of the fuel tank sealant caused major fuel leak issues. The leaking fuel tanks combined with the F-111's unique fuel storage system meant that maintenance personnel undertook repair work in hazardous occupational settings not previously experienced with other Royal Australian Air Force (RAAF) aircraft types. The issue of maintaining fuel tank sealant continued throughout the operational life of the F-111 aircraft.

[17] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 5.

Figure 1.1

Diagram of F-111 fuel tank locations



Source: Department of Veterans' Affairs, *F-111 Fuel Tank Maintenance Website*, http://f111.dva.gov.au/studies.htm> [accessed 3 October 2012].

1.3 To resolve the fuel leaks, four formal deseal/reseal maintenance programs were conducted between 1977 and 2000 at the RAAF Base Amberley in Queensland, see Table 1.1. These formal maintenance programs were modelled on a deseal/reseal program put in place in the United States of America (USA). Australian F-111s were also sent to the US Air Force, in Sacramento, for fuel tank maintenance.

1.4 In addition to the formal deseal/reseal programs, continual flight-line repairs, known as Sealant Rework, 'fuel tank leak repair', or 'pick-and-patch' repairs were conducted.[18] The 'pick and patch' work involved the physical removal of the tank sealant, with individuals entering the fuel tanks to use dental picks and other tools, and then resealing the area around the leak. The personnel involved in this work undertook the 'pick and patch' activity as one of a number of functions, and did not work in the fuel tanks as their primary task. This type of work was conducted frequently between 1973 and 2000.

[18] ibid., p. 16.

Table 1.1

Formal F-111 deseal/reseal maintenance programs

Year/Program description
1977–1982. The first deseal/reseal program conducted by RAAF personnel at No 3 Aircraft Depot.
1985–1992. The wing-tank repair program which did not involve staff entering fuel tanks, conducted at Hangar 277.
1991–1993. The second deseal/reseal program (conducted by Hawker De Havilland under contract) at No 3 Aircraft Depot and later 501 Wing at Amberley.
1996–2000. The spray seal program conducted at 501 Wing. This involved a new US process of spraying sealant over the old sealants left in place. Unlike the US program, the Australian program did not specify time limits that staff could be inside fuel tanks. This program was halted on 28 January 2000 following management concern about health problems.

Source: ANAO analysis.

1.5 The fuel tank repair work used a range of different techniques and chemicals. The work was carried out in generally cramped, hot and humid conditions and (except for the wing program) involved personnel working for long periods inside the tanks.[19] The fuel tank repair work was conducted by RAAF F-111 maintenance workers, airframe fitters and many other tradespersons including electrical fitters and surface finishers who worked within fuel tanks. Civilian contractors, and some school students undertaking job experience—albeit for comparatively short periods of time, may also have been exposed to aspects of this work.[20]

1.6 As well as staff directly engaged in fuel tank repairs, other staff were exposed to the chemicals used. They were involved in handling and incinerating sealants, solvents and contaminated fuel; and worked within or disassembled the Amberley 'rag hangar' where the maintenance work was conducted.[21]

1.7 In late 1999 members of the fuel tank repair section at the RAAF Amberley airbase became concerned about adverse health effects, with some 400 personnel reporting a range of symptoms and illnesses from various programs, including: skin rashes, gastro-intestinal problems, headaches,

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[19] *Information for F-111 fuel tank workers and their families* [Internet], Department of Veterans' Affairs, 2010, available from <http://f111.dva.gov.au/history.htm> [accessed 6 June 2012].

[20] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 7.

[21] A canvas deployable hangar where deseal/reseal activities occurred.

fatigue and loss of memory. Separate reports from both the Commanding Officer and a doctor at the medical section raised sufficient concern for the fuel tank repair work to cease. In response to the adverse health conditions experienced by F-111 maintenance workers, various inquiries and responses by the Australian Government were instituted between 2001 and 2005, including a Board of Inquiry (BOI) and an ex gratia payment scheme. The various responses are summarised in Table 1.2.

1.8 Despite the various Government responses identified in Table 1.2, former F-111 fuel tank workers, including the F-111 Deseal/Reseal Support Group, continued to call for a further inquiry into a range of issues such as: the restricted eligibility for certain F-111 workers that excluded them from receiving compensation, differing compensation laws, inconclusive medical research and inadequate or non-existent Department of Defence (Defence) records of workers' eligible service.

1.9 The Deseal/Reseal Support Group and the Queensland Branch of the Returned and Services League of Australia (RSL) informed the ANAO of their opinion that the 2005 ex gratia payment scheme has been divisive and that some undeserving claimants had been paid.

Table 1.2

The Australian Government's responses to the Board of Inquiry and health studies (2001 to 2005)

RAAF Board of Inquiry (July 2000–June 2001) This inquiry examined the four formal deseal/reseal programs (conducted during 1977–2000) including the spray seal program, and reported its findings in September 2001. It identified a wide range of factors that had caused long-term health problems for hundreds of RAAF workers. The RAAF accepted all 53 of the inquiry's recommendations.[22]
Interim Health Care Scheme (September 2001) Following the BOI, Defence established and funded the Interim Health Care Scheme which was administered by DVA. Eligibility for Group 1 was given to deseal/reseal, pick and patch and peripheral workers. Other personnel working at RAAF Base Amberley and Group 1 family members were eligible for Group 2 status. The Interim Health Care Scheme provided interim health care for a range of conditions while a Group 1 participant's compensation claims for that condition were been determined. The Interim Health Care Scheme operated, pending the completion of the subsequent health study—Study of Health Outcomes in Aircraft Maintenance Personnel (SHOAMP). Participants could also access counselling through the Veterans and Veterans Families Counselling Service.
Study of Health Outcomes in Aircraft Maintenance Personnel (2001-2004) DVA commissioned a SHOAMP on behalf of the RAAF. The SHOAMP reported in 2004, and found an association between deseal/reseal work and a range of health conditions such as anxiety, depression, memory impairment and erectile dysfunction. SHOAMP reported nearly twice the number of poor health symptoms than the comparison groups and an increase in the incidence of cancer.[23]
SHOAMP HCS and Better Health Program (August 2005) On 19 August 2005, the Interim Health Care Scheme closed and all participants were transferred to the new SHOAMP Health Care Scheme (SHOAMP HCS). Eligibility criteria and health care services did not change from the Interim Health Care Scheme to the SHOAMP HCS; however claimants must have registered by 20 September 2005.
Enhanced access to compensation (August 2005) A significant outcome of the Government's response to SHOAMP was the acceptance of the 31 conditions identified as adverse health conditions related to F-111 fuel maintenance work, under subsection 7(2) of the *Safety, Rehabilitation and Compensation Act 1988*. Subsection 7(2) provides a beneficial standard of proof enabling access to compensation for any of the 31 conditions without the need to establish a link to a claimant's service, so long as it is a diagnosed condition. If a claimant is diagnosed with one of the 31 conditions, they have access to health care and compensation under SRCA. The Government also commenced the Better Health Program which included cancer screening and health information.

[22] Department of Veterans' Affairs, *Information for F-111 Fuel Tank Workers and their Families*, DVA, 2010, available from <http://f111.dva.gov.au/history.htm> [accessed 3 October 2012].

[23] Study of Health Outcomes in Aircraft Maintenance Personnel, Volume 5, p. xvii, cited in Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, pp. 24–25, p. 27.

Ex gratia payments (August 2005) The Government offered ex gratia payments of $10 000 and $40 000 (depending on the level of work undertaken by workers) to recognise the unique working environment experienced by the F-111 maintenance personnel in the four formal programs or attached to a deseal/reseal section or the performance of associated duties. Those who performed 'pick and patch' work in F-111 maintenance Squadrons 1, 6, and 482 were excluded from the ex gratia payment.

Source: ANAO analysis.

Parliamentary committee inquiry

1.10 In May 2008 the Defence Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSC) commenced an inquiry to examine the health and compensation issues surrounding F-111 fuel tank maintenance workers and their families. The inquiry also considered the adequacy of the Government's response to date and whether it was consistent with the findings of SHOAMP. The JSC's report *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families* was tabled in Parliament on 25 June 2009.

1.11 The JSC made 18 recommendations relating to: health care and support for F-111 fuel tank maintenance workers and their families; access to compensation under Subsection 7(2) (ss 7(2)) of the *Safety, Rehabilitation and Compensation Act 1988* (SRCA) for the 31 conditions, as identified following the SHOAMP; access to ex gratia payments; occupational health and safety issues specific to Defence and the ADF (Australian Defence Force); and further analysis and research, to understand the underlying factors for these medical conditions.

The Government's May 2010 support package

1.12 In May 2010, the Australian Government accepted 14 of the JSC's 18 recommendations[24], with DVA directly responsible for implementing 10 recommendations, Defence responsible for implementing three, and joint responsibility for the implementation of one recommendation.

1.13 In the May 2010 Budget, the Government announced a $55 million support package over four years in response to the report, including:

[24] The Government rejected the JSC's recommendations relating to the expansion of the eligibility criteria for ex-gratia lump sum payments and stated that the payments do not recognise the health needs of participants.

- expansion of the definition of eligible personnel used in the 2005 F-111 ex gratia payment scheme—enabling an estimated additional 2400 F-111 fuel tank 'pick and patch' fuel tank maintenance workers and other tradespeople to access healthcare, counselling support and compensation;
- the development of new guidelines for the use of statutory declarations as proof of eligible service, in cases where records were inadequate or non-existent;
- reviewing prior cases where a statutory declaration had been rejected in determining an ex gratia payment;
- enabling family members to receive additional counselling support;
- reopening the Study of Health Outcomes in Aircraft Maintenance Personnel Health Care Scheme (SHOAMP HCS) to new applicants, by abolishing the 20 September 2005 closing date for registering with the Scheme;
- allowing the estates of personnel who died before 8 September 2001 to apply under the F-111 ex gratia scheme;
- requiring Defence and DVA to jointly deliver a website which would provide information and assistance to potential claimants; and
- requiring DVA to appoint a Senior Monitoring Officer (SMO) to, amongst other tasks, report to Government on the implementation of the support package.

The number of people affected

1.14 In 2001 the BOI stated that the exact number of people employed on the four formal programs and closely related duties 'proved very difficult to determine because the workforce was so fluid'. The inquiry determined that approximately 700 people were involved in the four formal programs and provided a list of 497 people likely to have been exposed to deseal/reseal chemicals.[25]

[25] Royal Australian Air Force, *Chemical Exposure of Air Force Maintenance Workers*; Report of the Board of Inquiry into F-111 (Fuel Tank) Deseal/Reseal and Spray Seal Programs, Royal Australian Air Force, Canberra, 2001, Volume 2, Part 1, Chapter 12, Annex A.

1.15 The JSC observed in 2009 that:

> Regrettably the complete absence of meaningful records for many of the years in question makes it difficult to identify all participants to a level normally required. The Committee notes that the incomplete state of records is due to Commonwealth archival policy at the time.[26]

1.16 Defence advised the JSC inquiry in 2008 that 2300 Airframe Fitters or Aircraft Technicians were involved in the four formal programs and at F-111 squadrons and air depots, of whom approximately 600 had qualified for the ex gratia payment.[27] In July 2008, DVA stated that it had received compensation claims from 628 people, and a total of $67.9 million had been paid in compensation and ex gratia payments.[28] The then Minister for Veterans' Affairs, when announcing the $55 million support package in 2010, estimated that an additional 2400 'pick and patch' workers would be covered by the package.[29]

1.17 In summary, the best estimate is that approximately 3100 fuel tank maintenance workers could have been affected. This estimate includes the 762 fuel tank maintenance workers who received Tier classification prior to May 2010, and the additional 2400 'pick and patch' workers now considered eligible.

1.18 As mentioned above, a central focus of the JSC inquiry was to recommend the expansion of access for former F-111 fuel tank maintenance workers to healthcare and compensation. All Australian Public Service employees are covered by the SRCA and can claim compensation for work-related injuries (or diseases). They must be able to show that the injury was related to their service. All former Defence and civilian F-111 fuel tank maintenance workers can apply to DVA for classification as an F-111 fuel tank worker—this is called Tier classification. If successful, Defence personnel are entitled to access compensation under the more beneficial provisions of ss7(2) of the SRCA, whereby the Commonwealth accepts liability if the claimant has

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[26] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 147.

[27] Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 12.

[28] Joint Standing Committee on Foreign Affairs, Defence and Trade, ibid., p. 73. DVA advised that a small number of ex gratia determinations and payments had been made between 2007 and 2010.

[29] Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 4.

a diagnosed condition which is acknowledged as related to F-111 fuel tank repair work. If unsuccessful, they can still claim under the general provisions of the SRCA.

1.19 ADF veterans can choose to claim under the SRCA or under the *Veterans' Entitlements Act 1986* (VEA)—with some ADF veterans eligible to claim under both—in respect to service prior to 1 July 2004. A causal link between the disease or injury and service must be determined.

1.20 Former F-111 maintenance workers who were employed by third-party aviation maintenance companies, such as civil contractors employed by Hawker De Havilland and Amalgamated Wireless Australia Serco are not covered by the SRCA or the VEA, unless they also served in the ADF. They can however make claims for compensation through either WorkCover Queensland, or a common law action. Commonwealth employees can also make claims under Comcare and common law for injuries arising before 1 December 1988 when the SRCA commenced, or under section 45 of the SRCA where negligence can be demonstrated.[30]

Previous ANAO audits

1.21 In May 2012 the ANAO completed an audit, *Management of Complaints and Other Feedback by the Department of Veterans' Affairs*, which examined several case studies to highlight DVA's management of complaints and feedback.[31] The audit referred to complaints procedures for F-111 deseal/reseal workers and their families. The ANAO has not previously audited DVA's administration of the F-111 package of support.

Audit objective, criteria, scope and methodology

1.22 The objective of the audit was to assess the effectiveness of DVA's and Defence's administration of the Australian Government's $55 million support package announced in the May 2010 Budget for former F-111 fuel tank maintenance workers and their families.

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30 Royal Australian Air Force, *Chemical Exposure of Air Force Maintenance Workers*; Report of the Board of Inquiry into F-111 (Fuel Tank) Deseal/Reseal and Spray Seal Programs, Royal Australian Air Force, Canberra, 2001, Volume 2, Part 1, Chapter 10, Annex B.

31 ANAO, Audit Report No. 32, 2011–12, *Management of Complaints and Other Feedback by the Department of Veterans' Affairs*, p. 42.

1.23 The audit scope is the implementation of 14 agreed recommendations in the *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families* (the government response), which formed the basis of the May 2010 F-111 support package. The criteria used to assess DVA's and Defence's performance against the objective were:

- DVA and Defence have effectively progressed the implementation of the $55 million package of support for former F-111 fuel tank maintenance workers and their families;
- DVA has implemented effective processes to promote access to, and review eligibility for, the expanded F-111 support arrangements;
- DVA has implemented effective processes to support former F-111 fuel tank workers claiming health care services, compensation and other benefits; and
- DVA and Defence communicate with the F-111 fuel tank maintenance community, monitor claims for late onset conditions, conduct further research, and provide reports as required, in order to effectively administer the support package.

1.24 To form an opinion against the audit objective, the audit team:

- examined DVA's policy documents, guidelines and procedures including claims processing and protocols to manage vulnerable clients, as well as DVA's implementation plans and implementation reports regarding the Parliamentary inquiry's recommendations;
- examined a random sample of new and DVA reviewed Tier applications claims, as well as deceased estate claims;
- interviewed DVA and Defence staff and consulted stakeholders such as the Deseal/Reseal Support Group and Ex-Service Organisations (ESOs); and
- invited submissions from stakeholders and members of the public to contribute to the audit, through the use of an online citizen input communication portal, to enhance and complement traditional consultation mechanisms.

1.25 The audit was conducted in accordance with the ANAO's auditing standards at a cost to the ANAO of $365 315.

Report structure

1.26 The remainder of this Report is in four parts.

Chapter 2 examines the effectiveness of DVA's implementation, management and coordination of the Government's $55 million package of support. It also examines the effectiveness of DVA's and Defence's communication with the F-111 fuel tank maintenance community, the departments' promotion of the government response, and the monitoring of claims for late onset conditions.

Chapter 3 addresses DVA's implementation of the government response relating to increased access to health care and compensation for pick and patch fuel tank workers, acceptance of statutory declarations as evidence, and DVA's review of cases where a statutory declaration was rejected in determining an F-111 ex gratia payment in 2005 and 2006. The second section of the chapter examines the review and reconsideration of Tier processing decisions by DVA.

Chapter 4 examines the support services that DVA, the VVCS and Defence have developed and implemented, as well as Defence's approach to resolving outstanding legal cases brought by ex fuel tank workers.

Chapter 5 summarises DVA's and Defence's implementation of the 14 recommendations in the government response. Two recommendations tasked to Defence are considered in detail: Recommendation 17, increasing the Australian Defence Force's capability in workplace health and safety, and Recommendation 18, commencing the Jet Fuel Exposure Syndrome Study.

2. Agency implementation and communication arrangements

This chapter examines the effectiveness of DVA's implementation, management and coordination of the Government's $55 million package of support. It also examines the effectiveness of DVA's and Defence's communication with the F-111 fuel tank maintenance community, the departments' promotion of the government response, and the monitoring of claims for late onset conditions.

Introduction

2.1 Key arrangements that can assist with the effective implementation of Government initiatives are:

- developing and using comprehensive project planning documents, such as implementation, risk management and communication plans;
- clearly defining the roles and responsibilities of staff, and designating areas of accountability;
- ensuring adequate resources are available to implement an initiative; and
- reporting and monitoring on the implementation of a program and assessing its effectiveness.[32]

Implementing the F-111 support package

2.2 Implementation of the Government's F-111 support package was identified as a key challenge in DVA's 2010–11 Corporate Plan.[33] To facilitate implementation of the package, DVA prepared the following documents: a Project Plan, Risk Management Strategy and a Communication Management Strategy. This approach was approved by the F-111 Project Management Board, which provided oversight of the planning arrangements for the F-111 support package, in preparation for the package's announcement in the May 2010 Budget.[34] The Project Plan was designed to:

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[32] ANAO Better Practice Guide—*Implementation of Programme and Policy Initiatives: Making Implementation Matter*, October 2006, Canberra, p. 13.

[33] Department of Veterans' Affairs, 'Corporate Plan 2010–11', p. 1.

[34] DVA's Project Plan included a Risk Management Strategy and a Communication Management Strategy.

- identify and define the major outcomes of the project and the activities to deliver them;
- estimate and identify the effort and timeframes required to achieve the delivery of the project's products, and the overall resource requirements and costs; and
- propose risk mitigation strategies for major risks to the project.[35]

2.3 DVA and Defence also put in place a Memorandum of Understanding (MoU) that specifies the roles, responsibilities and resource allocations of each agency in implementing the F-111 support package.[36] The MoU generally identifies the tasks and functions agreed and carried out by each agency. The MoU assigns DVA the responsibility for the evaluation and monitoring of outcomes in processing tier applications.

2.4 Alongside the preparation of project planning documents, the ANAO observed that in implementing the package DVA had:

- liaised with and provided advice to the Military Rehabilitation and Compensation Commission to improve the clarity of Tier definitions[37];
- developed a comprehensive website to guide former F-111 maintenance workers and DVA and RAAF staff about the assistance available under the F-111 support package;
- carefully managed stakeholder relations, engaging effectively with the F-111 Deseal/Reseal Support Group, and the Office of the Commonwealth Ombudsman;
- established a dedicated Tier and compensation claims processing team located in Brisbane, and conducted regular briefings with the team to inform them of their roles and responsibilities[38];
- conducted reconsiderations of F-111 Tier processing decisions and provided high-level oversight of decision-making; and

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35 Department of Veterans' Affairs, 'Project Plan', ibid., p. 2.

36 Department of Veterans' Affairs and Department of Defence, 'Schedule 14 to MoU between DVA and Defence', January 2013. Subsequent to the January 2013 MoU, DVA had in place MoUs for the implementation of the F-111 Support Package signed in 2005 and 2010.

37 Particularly in relation to the Government's decision to expand the definition of Tier 3, to extend access to sub-section 7(2) of the SRCA, for former F-111 maintenance workers.

38 A dedicated F-111 team supported by RAAF specialists was implemented prior to 2010 with the establishment of the Interim Health Care Scheme and Tier team.

- produced a 2012 *DVA Businessline* (the Program Guidelines) containing the policy and procedures for processing Tier and compensation claims.[39]

Budget

2.5 The F-111 support package was announced in May 2010 as a 2010–11 Budget measure and as a figure of 'some $55 million over four years'.[40] Table 2.1 identifies the Government's actual total allocation of $56.9 million over the package's five years until 2013–14, with $2.2 million allocated for the year 2009-10.

Table 2.1

2010–11 F-111 Deseal/Reseal Support—Budget Measures

F-111 Deseal/Reseal maintenance workers–further support	Program	2009–10 $'000	2010–11 $'000	2011–12 $'000	2012–13 $'000	2013–14 $'000	Total $'000
Administered expenses	1.4*	241	–	–	–	–	241
Departmental expenses	1.4*	1,405	2,738	1,370	796	389	6,698
Administered expenses	2.1 & 2.5	332	15,290	11,513	10,670	10,370	48,175
Departmental expenses	2.1 & 2.5	190	419	390	383	376	1,758
Total	–	2,168	18,447	13,273	11,849	11,135	56,872

Source: Australian Government, Portfolio Budget Statements 2010–11, Department of Veterans' Affairs, Budget Related Paper No. 1.5B, pp. 22–24.

Note*: Funding under Program 1.4 is currently provided under Program 1.6 *Military Rehabilitation and Compensation Acts Payments—Income Support and Compensation*.

2.6 Overall direct expenditure from 2010 to January 2013 has been $15.5 million, of which $3.5 million was departmental expenditure. The program is in its third year. DVA and Defence acknowledged that administered expenditure on compensation and health care was lower than anticipated due to a lower client take-up than expected. DVA stated that it projects that expenditure will increase as outstanding Tier applications and

[39] Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal Reseal Personnel', January 2012.

[40] Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 4.

compensation claims are determined.[41] Alongside expenditure on the F-111 support package, Defence has paid $1.47 million in ex gratia payments as a result of the Government's decision in May 2010 to review previous Tier classification decisions and process new applications. Table 2.2 identifies administered and departmental expenditure from May 2010 to January 2013.[42]

Table 2.2

Expenditure from May 2010 to January 2013

Administered expenditure	Departmental expenditure
• $11.3 million for compensation • $0.3 million for health care • $0.35 million for VVCS Lifestyle Programs	• $3.3 million for DVA delivery costs • $0.21 million for VVCS delivery costs

Source: Department of Veterans' Affairs, Fifth Progress Report to the Minister, February 2013, p. 3.

The Project Plan's internal reporting arrangements

2.7 The implementation phase for the F-111 support package extended from February to May 2010. During the implementation phase DVA provided the Project Board with five project highlight reports, between April and May 2010.[43] The reports detailed the work that DVA had undertaken to implement the Government's F-111 support package within four months.[44]

2.8 From May 2010, DVA's Performance Change Committee, which forms part of DVA's higher-level governance committee structure, received reports from the implementation team.[45] Other reporting activities included updating the status of the F-111 support package into DVA's Change Register, Senate Estimates Briefs, and Ministerial information briefs for meetings with ESOs in May and December 2010 and November 2011.

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41 Department of Veterans' Affairs, *'Fifth progress brief on the implementation of the Government response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal workers and their families'*, 6 February 2013, p. 3.

42 Department of Veterans' Affairs, ibid., p. 3. DVA reports that departmental expenditure does not include indirect support costs to the F-111 implementation team or the costs to Defence of the RAAF technical team.

43 Department of Veterans' Affairs, 'Project Highlight Reports: Implementation of the Government's Response to the Report of the Parliamentary into RAAF F-111 Deseal/Reseal Workers and their Families Project', 12, 24 and 28 April 2010 and 10 and 24 May 2010.

44 Department of Veterans' Affairs, 'Project Plan: Implementation of the Government's Response to the Report of the Parliamentary Inquiry into Royal Australian Air Force, F-111 Deseal/Reseal Workers and their Families Project', February 2010.

45 Department of Veterans' Affairs, 'Performance Management Committee: Extract of F-111 Matters', 16 January 2013.

Risk management

2.9 DVA's Risk Management Strategy forms an attachment to its Project Plan. The Risk Management Strategy identifies risks and mitigation measures for the implementation of the F-111 support package as a whole, and for the implementation of each recommendation. It identifies a number of higher risks: communication; timeframes for the announcement of the initiative; interagency cooperation; preparation of criteria, tools and procedures prior to announcement/implementation; and timeliness and adequate resourcing levels.[46]

2.10 Overall the content of the Risk Management Strategy is comprehensive and identifies a range of key risks to the implementation of the F-111 support package, and mitigation measures.[47]

Senior leadership and oversight of the implementation of the JSC's recommendations

2.11 In normal circumstances the responsibility for managing the delivery of programs by agencies is devolved from an agency's head to a senior responsible officer. This is the person who, among other managerial responsibilities, supports the relevant minister and their executive by providing progress reports and details of emerging risks.[48] The JSC highlighted the importance of such a role in implementing its recommendations, and proposed that:

> The Minister for Veterans Affairs appoint a person with suitable qualifications and background knowledge of the F-111 workers claims to oversee the implementation of these recommendations and to provide expert assistance to DVA in processing claims. The person should be appointed for a minimum of two years and also provide periodic advice to the Minister on progress in handling claims.[49]

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[46] Department of Veterans' Affairs, 'Project Plan: Implementation of the Government's Response to the Report of the Parliamentary Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families Project', February 2010, p. 13.

[47] The ANAO identified two key mitigation measures which required further development. Firstly, there was a delay in developing the Program Guidelines for investigating and processing Tier applications. DVA has agreed to further refinement of these Guidelines, see paragraph 3.82. Secondly, DVA is redefining its framework for staff training and the DVA and RAAF staff involved in Tier classification have not received formal training related to their roles as training has been on-the-job.

[48] ANAO Better Practice Guide—*Implementation of Programme and Policy Initiatives: Making Implementation Matter*, October 2006, Canberra, pp. 12–13.

[49] Recommendation 11, Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families,* June 2009, Canberra, p. 154.

2.12 In putting forward Recommendation 11, the JSC outlined the context for its inclusion:

> The processing of claims was a concern to many former F-111 workers. It is important that the DVA staff involved in this task have available to them support and advice from an appropriately qualified person with a detailed knowledge of the nature of work undertaken and the various units, squadrons and personnel involved.[50]

2.13 In its response, the Government indicated that it would appoint a senior, but not an independent, person to oversee the implementation:

> The Government will ask DVA to task a senior person, with suitable qualifications, including appropriate health background, and background knowledge of the F-111 worker claims to oversee the implementation of all the recommendations and to provide expert assistance to DVA in processing claims. This person will provide reports to the Government and will be responsible for the monitoring described in the response to Recommendation 1.[51]
>
> The Government does not consider it necessary to appoint an independent person to oversee implementation of these recommendations as this would take away from the responsibilities and powers vested in the Repatriation Commission, the Military Rehabilitation and Compensation Commission, the relevant Departmental Secretaries and the Chief of the Defence Force.[52]

2.14 In September 2010 DVA appointed a Senior Monitoring Officer (SMO) with professional qualifications in F-111 fuel tank maintenance, who had occupied the position of Technical Research Assistant to the Air Force Advocate, and had assisted with F-111 compensation matters. The SMO reports to the Assistant Secretary, Case Escalation/MRCA Review (Assistant Secretary).

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[50] Australian Senate, Joint Standing Committee on Foreign Affairs Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 154.

[51] The Government in its response to Recommendation 1 stated that—DVA will utilise the services of a senior officer to monitor and analyse the nature of conditions appearing in incoming compensation claims so that any emerging trends indicative of late onset conditions associated with deseal/reseal work can be identified.

[52] Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, May 2010.

2.15 DVA advised that the SMO had a well developed knowledge of medical science and had assisted with the development of an F-111 mitochondrial study. DVA has stated that the role of the SMO encompassed:

- monitoring and reporting progress of implementation of the government response to the Parliamentary Inquiry report;
- assisting claimants dissatisfied with the process or outcome of their claim, through liaison with other DVA staff and Defence; and
- monitoring and reporting on the health conditions being claimed by former F-111 fuel tank maintenance workers.[53] [54]

2.16 DVA senior management informed the Senate Foreign Affairs, Defence and Trade Legislation Committee that the role of the SMO was to:

> ... have a role of not being a delegate [to determine Tier or compensation claims] but being one step removed in order to be able to examine the processes and how things are going and report back appropriately through me and the secretary and so forth.[55]

2.17 The administrative arrangements adopted by DVA to implement Recommendation 11 involve two people: DVA has allocated day-to-day responsibility for management and the implementation of the government response to the JSC recommendations to the Assistant Secretary, and other tasks to the SMO.

2.18 The ANAO was provided with a few examples of the SMO delivering expert assistance to the tier processing team. However, due to the separation of duties between the Assistant Secretary and the SMO, this assistance was in an advisory rather than an oversighting role. Consequently, the SMO has provided only limited oversight and expert advice to the Tier processing teams. As a result of these arrangements, an opportunity has been missed for the SMO to provide quality assurance for the investigation and evidence-handling work undertaken by the Tier processing teams.

2.19 The SMO has focused on monitoring and reporting on health conditions presented by former F-111 workers for incoming compensation

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53 Department of Veterans' Affairs, *Information for F-111 Fuel Tank Workers and their Families—What's New* [Internet], DVA, 2010, available from <http://f111.dva.gov.au/whats_new.htm> [accessed 14 August 2012].

54 Department of Veterans' Affairs, Implementation of the Government Response to F-111 Deseal/Reseal (DSRS).

55 Senate Foreign Affairs, Defence and Trade Legislation Committee, *Senate Estimates 2010–2011*, Hansard, 1 June 2010, p. 157.

claims, while the Assistant Secretary has managerial oversight of the implementation and reports to the Minister and the DVA executive on the progress of the project.

2.20 The SMO has coordinated the delivery of five, six-monthly Ministerial briefings on the implementation of the recommendations.[56] The briefings provided to the Minister were comprehensive and included information such as progress to date, the outcomes of processing Tier applications and compensation claims, and expenditure. DVA has published a summary of the five Ministerial reports on the DVA/Defence F-111 website to inform the community of the progress in implementing the recommendations.[57] DVA has also reported publicly on the implementation of the F-111 support package in its Annual Reports for 2009–10, 2010–11 and 2011–12.

Establishing F-111 processing teams: roles and responsibilities

2.21 DVA's establishment of a dedicated F-111 Tier and claims processing team is a unique approach for DVA.[58] The team consisted of experienced staff who had involvement with the 2005–07 F-111 support measures. A RAAF Technical Team, also with previous experience in past F-111 support measures, is co-located with the DVA Tier and claims processing team.[59]

2.22 DVA's current arrangement of using a dedicated Tier and claims processing team to manage the workflow of former F-111 worker claims, has been effective in processing a large number of Tier reviews and applications in a short period of time.

2.23 Establishing a specialist dedicated processing team also reduces the likelihood that claims are inappropriately handled, leading to complaints from affected clients. Notably, the Commonwealth Ombudsman received fewer

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[56] Department of Veterans' Affairs, 'Brief No. B13/055' (6 February 2013); Department of Veterans' Affairs 'Brief No. B12/0436' (September 2012); Department of Veterans' Affairs, 'Brief No. B11/0765' (10 November 2011); Department of Veterans' Affairs, 'Brief B11/0473' (17 July 2011); and Department of Veterans' Affairs 'Brief B10/1001' (19 November 2010).

[57] Department of Veterans' Affairs, *Progress of the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade Report into RAAF F-111 Deseal/Reseal Workers and their Families* [Internet], 19 November 2010, 30 June 2011, November 2011., available from <http://f111.dva.gov.au/> [accessed 25 September 2012].

[58] Compensation claims are usually processed nationally by DVA staff located in States and Territories.

[59] Early processing was difficult due to the broad range of symptoms being claimed. For a claim to be determined and accepted, claimed symptoms need to be diagnosed and a causal connection to the person's service needs to be established. To compound these difficulties, there was an absence of official records about the levels of exposure to chemicals whilst the science about the causes of the conditions being presented was uncertain. Department of Veterans' Affairs, 'Representations to the ANAO', September 2012, p. 5.

complaints since the establishment of the current F-111 support package, than the previous iteration of the ex gratia scheme. The number of complaints received by the Commonwealth Ombudsman is discussed at paragraph 4.40.

2.24 Direct oversight of the Brisbane processing team is provided by Directors located in Brisbane and Canberra, and the Assistant Secretary, located in Canberra. The senior DVA staff communicate regularly with the RAAF through the RAAF Technical Team, located in Brisbane, and through the Director of Coordination–Air Force in the Office of the Chief of Air Force.

2.25 The RAAF Technical Team has responsibility for providing technical advice and assessments for Tier processing. Once an assessment is completed, a recommendation is provided by the RAAF staff to the DVA delegate authorised to make Tier determinations.[60] There was a cooperative working relationship between the dedicated RAAF Technical Team and the DVA Tier and compensation processing teams. Client and stakeholder feedback about the dedicated team has also been positive.[61]

2.26 Overall, implementation of the F-111 support package had been administered effectively. Notwithstanding the split in responsibilities between the Senior Monitoring Officer and the Assistant Secretary, Recommendation 11 has been substantially implemented.

Developing procedures to guide staff

2.27 DVA's Risk Management Strategy identified that the procedures for investigating Tier claims would be drafted 'immediately' (February 2010). In June 2010 DVA distributed a Program Guideline with a stated purpose 'to notify staff of changes to F-111 compensation benefits, announced in the 2010–11 Budget'.[62]

2.28 However, comprehensive formal procedures were documented approximately two years later, in January 2012, as the Program Guidelines for F-111 claims processing.[63] The purpose of the Program Guidelines was to 'provide all staff involved in processing compensation claims submitted by

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60 The Minister for Veterans' Affairs authorises a DVA officer at Executive Level 1 or higher to determine claims for payment under the F-111 Ex Gratia Payment Scheme.

61 ANAO meeting with Deseal/Reseal Support Group, 10 December 2012.

62 Department of Veterans' Affairs, 'Businessline: Extension of ss 7(2) to include F-111 Fuel Tank Maintenance Workers', 28 May 2010, p. 1.

63 Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', 17 January 2012.

former F-111 fuel tank maintenance workers with policy and procedures to be used to progress their claims and to ensure consistency in the decision-making process for all claimants'.[64, 65]

2.29 The major emphasis of the Program Guidelines was guidance tools for decision-making, including: a checklist to guide and record the decision-making steps when conducting a Tier classification investigation and determination; explicit guidance on how to weigh evidence; and appropriate record keeping standards for the file records, including recording how evidence was managed and assessed.

2.30 While there was a delay in developing the Program Guidelines, some guidance material (which was later incorporated in the Program Guidelines) was developed and promulgated to the DVA and RAAF processing teams beforehand, including:

- a checklist for F-111 Tier Classification files;
- the Military Rehabilitation and Compensation Commission's Guidelines for Using Statutory Declarations in Applications for Tier Classification; and
- information published on the DVA/Defence F-111 website (for DVA clients and staff).

2.31 The delay in releasing the Program Guidelines occurred notwithstanding concerns expressed by the Commonwealth Ombudsman in 2009, that DVA did not have in place documented policies for assessing and determining F-111 claims. The Ombudsman observed that a lack of formal documented guidance to DVA staff 'resulted in inconsistent approaches to the assessment of claims [and] in some cases [there were] insufficient documents to support a claim'.[66] DVA's response to the Ombudsman's findings stated that assurance over consistent decision-making was maintained 'because the claims were handled by a small team with a very limited number of delegates who could make a decision'.[67] However, such assurance cannot be guaranteed,

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64 DVA advised the ANAO that the purpose of developing the 2012 Program Guidelines was also to consolidate all previous advice and instructions into one document.

65 Department of Veterans Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', 17 January 2012, p. 1.

66 Commonwealth Ombudsman, *Executive Schemes: August 2009*, Report No. 12/2009, The Commonwealth Ombudsman, Canberra, Australia, pp. 20–21.

67 ibid., p. 21.

particularly when staff turnover takes place or more complex decisions are required. DVA also acknowledged that for previous F-111 support measures:

> ... the Tier definitions were not precise and they required interpretation. This added to the difficulty for the delegate in determining whether a claimant met Tier status.[68]

2.32 While key guidelines for Tier processing have been developed, during the audit the ANAO identified Tier classification investigations which showed deficiencies in adherence to the DVA Tier processing guidelines and decision-making principles. In particular, evidence was not always recorded or weighed correctly, and some decisions were not adequately explained (see paragraph 3.37).

Staff training

2.33 The DVA Project Plan identified that RAAF staff may not be adequately trained to determine the new Tier 3 definition, leading to incorrect or inconsistent decisions as a key risk. The action identified to ameliorate that risk was to provide staff training.

2.34 DVA advised the ANAO that when the Tier processing team was set up in June 2010, DVA chose experienced staff and provided close guidance and support. The responsible DVA Assistant Secretary met with the RAAF Technical Team in May and August 2010 to explain the Government's decision, outline the task ahead, and agree on processes; the Team was also involved in subsequent DVA implementation meetings throughout 2010 and 2011.

2.35 Notwithstanding the training and guidance provided to staff, formal training in areas such as administrative decision-making, evidence handling and record keeping had not occurred until quite recently(see also paragraph 3.85). This was remedied in April 2013, when the DVA delegate and RAAF Technical Team attended a new DVA course on administrative law and decision-making.

[68] Department of Veterans' Affairs, 'Minute: ACT Office—Deseal/Reseal Support Group Concerns F-111 Tier Determinations', March 2012.

Promotion and information activities

2.36 Recommendation 1 of the government response expanded eligibility for Tier classification and access to health care and compensation for potentially an additional 2400 F-111 fuel tank workers. The majority of these people were unknown to DVA, so a national information campaign was required to encourage eligible applicants to apply for Tier classification and to 'raise awareness of health care and compensation changes made for F-111 workers'.[69]

DVA's communication strategy

2.37 In 2010, DVA developed a specific F-111 Communications Management Strategy aiming to 'keep stakeholders appropriately informed and to get the right information to the right stakeholders at the right time'.[70] The key messages of the communication plan were to convey:

- the entitlements that were available as a result of the response;
- how to claim those entitlements;
- what progress is being made on delivery of the project; and
- outcomes of implementing recommendations.

2.38 The Communications Management Strategy identified and defined stakeholders and listed the intended communication tools and frequency of use. The ANAO examined the intended communication tools and compared this to the actual advertising and promotion output. All but one of the intended products was delivered: the staff training package was not developed. Completed activities included: the development of the website and factsheets, a mail out to previously unsuccessful F-111 ex gratia scheme applicants; promotion in Service and ESO publications, media releases, and information briefings to the Deseal Reseal Support Group and to Government stakeholders including the Commonwealth Ombudsman.

2.39 At September 2012, DVA estimated that $270 000 has been spent on the information campaigns for the government response to the *Sealing a Just*

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[69] Department of Veterans' Affairs, 'Action Brief: F-111 Campaign Advertising', 24 June 2010, p 1.

[70] Department of Veterans' Affairs, 'Communication Management Strategy: Implementation of the Government Response to the Report of the Parliamentary Inquiry into RAAF F-111 Deseal/Reseal workers and their Families Project', February 2008, p. 2.

Outcome report. There were three rounds of national advertising in July, September, and December 2010. The fourth round from February—April 2012 focused on Western Australia, South Australia and the Northern Territory and was in response to feedback from the ESO community regarding a low level of awareness regarding the services for ex fuel tank maintenance workers in these regions.[71] DVA advised that the content of the promotional material was altered for the fourth campaign from advising of the government response to urging potential claimants to check their eligibility for Tier classification, compensation and health care.

2.40 The promotional push was also supplemented by letters sent to the 1200 people listed in DVA's F-111 database, in late May 2010, advising of the changes announced in the 2010 budget. Three training and information sessions were also conducted, aimed at raising awareness of the Tier classification process within the ESOs.[72] Additionally, DVA has taken opportunities, when potential claimants could be present, to alert the community to available services for F-111 fuel tank maintenance workers.[73] DVA has advised that 'since September 2011, despite ongoing promotion of the 2010 government response and encouragement of potential Tier applicants to come forward, the rate of lodgement of new Tier applications has diminished'.[74]

2.41 The RAAF Technical Team has compiled a list of additional potential applicants and plans to conduct a mail out in mid to late 2013. DVA has also advised that it 'plans to take any opportunities it can through Defence led public displays and campaigns to continue encouraging potential F-111 Tier eligible personnel to come forward'.[75]

Results of the information campaigns

2.42 From May 2010 until January 2013, there have been 483 new applications for Tier classification. This is less than the influx of Tier

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71 Department of Veterans' Affairs, 'Meeting Brief: Meeting with the Deseal/Reseal Support Group and other interested Ex-Service Organisations', 10 November 2011, p. 12.

72 Department of Veterans' Affairs, 'Representations to the Australian National Audit Office', September 2012, p. 10.

73 For example, the DVA F-111 team had an information booth at the F-111 decommissioning ceremony in December 2010. To coincide with this event, advertisements were also placed in the *RAAF News*, *Wings Journal* and the *City News*.

74 Department of Veterans' Affairs, ibid., p. 11.

75 Department of Veterans' Affairs, ibid., p. 11.

applications expected by DVA and other support organisations.[76] DVA has advised that the information campaigns have not been considered to be particularly effective, in terms of increasing the number of claims for Tier classification. However, Defence, DVA and the relevant ESOs have commented that this is partially due to potential claimants choosing not to claim while they are healthy. While a proportion of these missing claimants may have been advised of the services available, they may be choosing not to claim.

2.43 Analysis of the website and hotline use during the advertising shows that the June and September 2010 campaign generated a higher level of enquiries and an increase in website visits when compared to the previous months (see Figure 2.1).

F-111 website and DVA hotlines

2.44 As a result of evidence presented at the Parliamentary Inquiry, the JSC concluded that there needed to be a single source of information regarding the Government's response to the SHOAMP. Former F-111 fuel tank workers and those in the wider F-111 community reported conflicting or 'hard to find'[77] messages regarding SHOAMP, the ex gratia payment and studies into toxicology. In an effort to centralise the information, the JSC recommend that DVA and Defence establish a dedicated website for F-111 aircraft maintenance issues.

> **JSC Recommendation 15**—The Committee recommends that Defence and DVA establish a dedicated website in relation F-111 aircraft maintenance issues. Such a website should be comprehensive and include [information on]: the BOI Report and recommendations; the complete SHOAMP study reports; information on the ex-gratia payment including application forms; a link to this report and recommendations; and contact details and role descriptions of all relevant personnel including the Defence Force Advocate, ex gratia processing team, DVA compensation processing team and other support mechanisms such as the F-111 DSRS Support Group, counselling support and the Commonwealth Ombudsman.

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[76] The Military Claims Liaison Office increased staff numbers in anticipation of an increased case load. See also: Department of Veterans' Affairs, 'Fifth progress brief on the implementation of the Government response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal workers and their families', 6 February 2013, p. 2.

[77] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, June 2009, p. 156.

The Government accepts the recommendation—Defence and DVA will establish a dedicated website in relation to F-111 aircraft maintenance issues and include the information detailed in the recommendation.

2.45 The amount of information available to claimants was also an aspect considered by the Commonwealth Ombudsman in 2007 and 2009. In addition to the website, DVA maintains two hotlines: one for Tier Classification and Compensation enquiries and the other for SHOAMP Health Care Scheme (HCS) and Better Health Program enquiries.

F-111 website

2.46 Defence and DVA agreed on the basic format and content of the F-111 website, which was designed and developed by DVA. DVA maintains control of the F-111 website, with the Defence internal intranet and external internet sites linking to the F-111 website.[78] The website went 'live' on 11 May 2010 to ensure the details of the government response were readily available to claimants or interested parties as soon as the budget was announced. Recommendation 15 contained a suggested list of website content, all of which has been included on the F-111 website.

2.47 DVA and Defence have established a comprehensive and accessible website. The content of the website has gone beyond what was detailed in Recommendation 15, including F-111 history, commonly asked questions, and factsheets. The website also contains contact details for: the Better Health Program enquiries, the Defence Work Health and Safety Branch, F-111 advocacy advice (external to DVA), and Ministerial links.[79] [80]

2.48 DVA advised that ESOs and the Deseal/Reseal Support Group have commented favourably on the website in several meetings after the website went live; considering it well designed, comprehensive and useful. Feedback provided through the hotline shows that the F-111 website is regarded as a 'useful tool to convey information in the F-111 community'.[81] Additionally, the website was recently used as an outreach tool to seek expressions of interest

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78 Defence Work, 'Health and Safety, Briefing to ANAO audit team', 23 August 2012, p. 4.

79 Department of Veterans' Affairs, *Contact Us* [Internet], DVA, 2010, available from <http://f111.dva.gov.au/contacts.htm> [accessed 29/10/2012].

80 The ANAO tested the hyperlinks on the F-111 website in August and October 2012. Considering the hundreds of hyperlinks on the website, only a small proportion of them were broken. DVA, upon receiving advice from the ANAO regarding broken links, rectified the problems within three weeks.

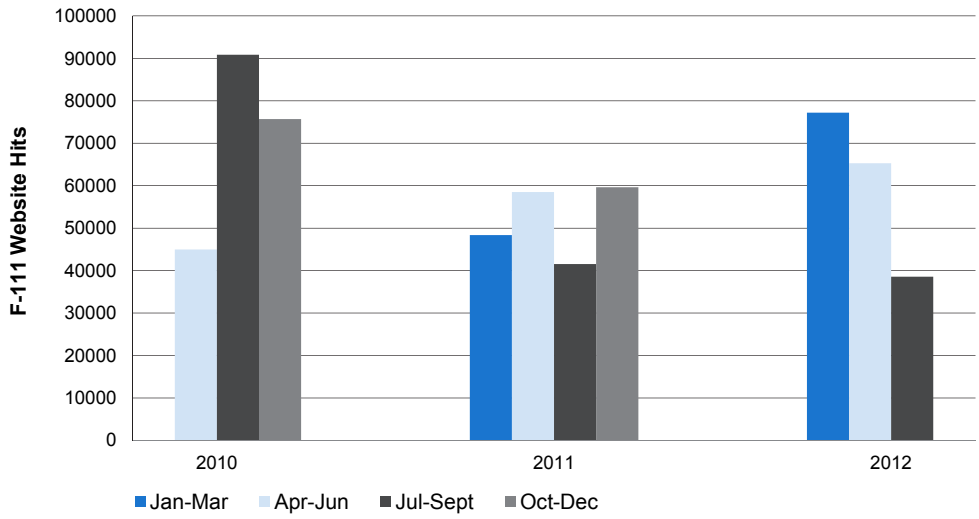
81 Department of Veterans' Affairs, 'Fourth Progress report to the Minister', June 2012, p. 16.

from the F-111 fuel tank worker community for participation in the Jet Fuel Exposure Syndrome Study.[82]

2.49 Figure 2.1 shows the frequency of F-111 website visits from 2010–12.

Figure 2.1

F-111 website hits May 2010 to August 2012



Source: ANAO analysis of F-111 website data provided by DVA.

2.50 There was a peak of website use in the months after the website went live in May 2010. This high usage remained at peak levels for the rest of 2010, probably aided by the advertising campaigns on radio, e-posters, print media, letters, brochures and promotion through the Deseal/Reseal Support Group and other ESOs in July/September 2010 and the campaign in December 2010. Additionally, the remaining F-111s were retired in December 2010, and the DVA team had an information booth at the ceremony, which also would have boosted public awareness of the website. Use of the website in 2011 remained steady but was consistently lower than the use shown in 2010. There was another peak in the first quarter of 2012, corresponding with the final round of the information campaign. The statistics show a downward trend in the

[82] Department of Veterans' Affairs, *What's New* [Internet], DVA, 2010, available from <http://f111.dva.gov.au/whats_new.htm > [accessed 29/10/2012].

following quarters of 2012, suggesting that advertising has had a noticeable effect on website use.[83]

DVA F-111 and SHOAMP Hotlines

2.51 DVA maintains two hotlines to encourage F-111 applicants or interested parties to enquire about services or the progress of their application. These are the F-111 Tier Classification and Compensation hotline and the SHOAMP HCS and Better Health Program hotline.[84] These two hotlines are answered by operators during usual business hours and divert to answering machines out of hours.[85]

2.52 DVA advised that there are no call protocols for either hotline. File notes of conversations are made if the conversation, decision or advice is considered noteworthy by the operator, and that general queries are not recorded. The Deseal/Reseal Support Group and an ESO informed the ANAO that the DVA staff operating the hotlines appear knowledgeable and provide an effective personal connection between the claimant and DVA.

2.53 Recommendation 15 has been implemented in a timely and comprehensive fashion.

Conclusion

2.54 Overall, DVA has put in place the key elements necessary to support effective implementation of the F-111 support package.

2.55 The key elements include: documented planning and governance arrangements; appointing the SMO and assigning management responsibility to the Assistant Secretary; undertaking risk management; developing information campaigns and an effective F-111 website for clients; establishing the DVA and RAAF dedicated Tier processing /compensation teams; and developing arrangements for reporting to Government.

2.56 The role of the SMO is split over two positions, which differs in some respects from the arrangement contained in Recommendation 11. The SMO's role of providing expert advice to the Tier processing teams has been under developed, and an opportunity has been missed for the SMO to provide a

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83 ANAO analysis of data provided by DVA.

84 Department of Veterans' Affairs, *Contact Us* [Internet], DVA, 2010, available from <http://f111.dva.gov.au/contacts.htm> [accessed 29/10/2012].

85 On average, both the hotlines were still receiving at least one phone call each day in 2012.

potentially valuable quality assurance role for the investigation and evidence-handling work undertaken by the DVA and RAAF Tier processing teams.

2.57 DVA's establishment of a dedicated F-111 Tier and claims processing team is a unique approach for DVA, which was adopted to facilitate the processing of applications for F-111 Tier classification and for compensation claims and benefits. The team consisted of experienced staff who were involved in the 2005–07 F-111 support measures. There was however a delay in developing comprehensive Program Guidelines, until 2012, to direct staff in processing applications for Tier classification. This is of concern, particularly because the Commonwealth Ombudsman had identified in 2009 that DVA did not have in place documented policies for assessing and determining F-111 claims. From May 2010 until January 2012, there were various instructions in place, but together they did not amount to the guidance which was provided when the Program Guidelines were issued in January 2012.

2.58 The DVA Project Plan identified that RAAF staff may not be adequately trained to determine the expanded Tier definition, leading to incorrect or inconsistent decisions as a program risk; the action to ameliorate the risk was to provide staff training. Notwithstanding the other guidance provided to staff, and management support for staff, formal training in areas such as administrative decision-making, evidence handling and record keeping did not occur until April 2013. This may have contributed to the problems in evidence handling and recording during Tier processing which are examined in chapter three.

3. Client access to support and compensation

The first section of this chapter addresses DVA's implementation of the government response relating to increased access to health care and compensation for pick and patch fuel tank workers, acceptance of statutory declarations as evidence, and DVA's review of cases where a statutory declaration was rejected in determining an F-111 ex gratia payment in 2005 and 2006. The second section examines the review and reconsideration of Tier processing decisions by DVA.

The Tier classification process

3.1 An ex F-111 fuel tank maintenance worker who wishes to receive compensation and health care benefits from DVA must apply for 'Tier classification', which is determined by the RAAF and DVA. Applicants are classified into one of three Tiers (Tier 1 to Tier 3) based upon consideration of the type of fuel tank maintenance work or peripheral duties they performed and the time spent carrying out this work.[86]

3.2 Tier classification decisions are made by DVA following an investigation and assessment by RAAF F-111 Technical Team members. The team collects and considers evidence, compares this against the Tier definitions, and makes a recommendation to the DVA delegate. The delegate then determines the applicant's Tier status according to the type of duties they performed in F-111 fuel tank maintenance work and in related trades and tasks.

3.3 Following the government response, in May 2010 the Military Rehabilitation and Compensation Commission (MRCC) was involved in the redesign of the existing F-111 Tier classification processes.[87] [88] The MRCC

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[86] Tier classification has its origins in the government's December 2004 response to the findings of the Study of Health Outcomes in Aircraft Maintenance Personnel.

[87] The MRCC's functions include: making determinations relating to the acceptance of liability for service-related conditions, the payment of compensation, and the provision of treatment and rehabilitation. Department of Veterans' Affairs, *Functions and Powers* [Internet], DVA, 2012, available from <http://www.dva.gov.au/aboutDVA/publications/corporate/annualreport/2011-12/milcomp/Pages/7-1.aspx> [accessed 13 November 2012].

[88] The MRCC determines and manages claims which relate to Defence service under the SRCA. Schedule 2 to the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004* gives this power and function to the MRCC.

approved the Guidelines for Statutory Declarations[89] used in the Tier classification process, approved the extended definition of Tier 3 to include pick and patch workers, and the use of ss 7(2) SRCA for personnel who meet the extended definition of Tier 3, and approved a revised definition of a SHOAMP HCS Group 1 participant.

3.4 DVA states that 'Tier Classification informs:

- decisions about eligibility for compensation for disease or injury under ss 7(2) of the SRCA;
- the ex gratia lump sum payment scheme; and
- determining Group 1 status eligibility for treatment under the SHOAMP[90] Health Care Scheme and screening through the Better Health Program'. [91, 92]

Tier classification decisions

3.5 The outcomes of DVA's consideration of a Tier claim are shown in Figure 3.1 and are discussed below. There are several pathways to health care and compensation, depending on the assessed degree of contact with fuel tank maintenance and the type of work performed, which determine the subsequent Tier classification. It is the interaction of the Tier level and the claimant's health condition which determines the outcome for a given client.

[89] Military Rehabilitation and Compensation Commission, 'Guidelines for Using Statutory Declarations in Applications for Tier Classification', May 2010.

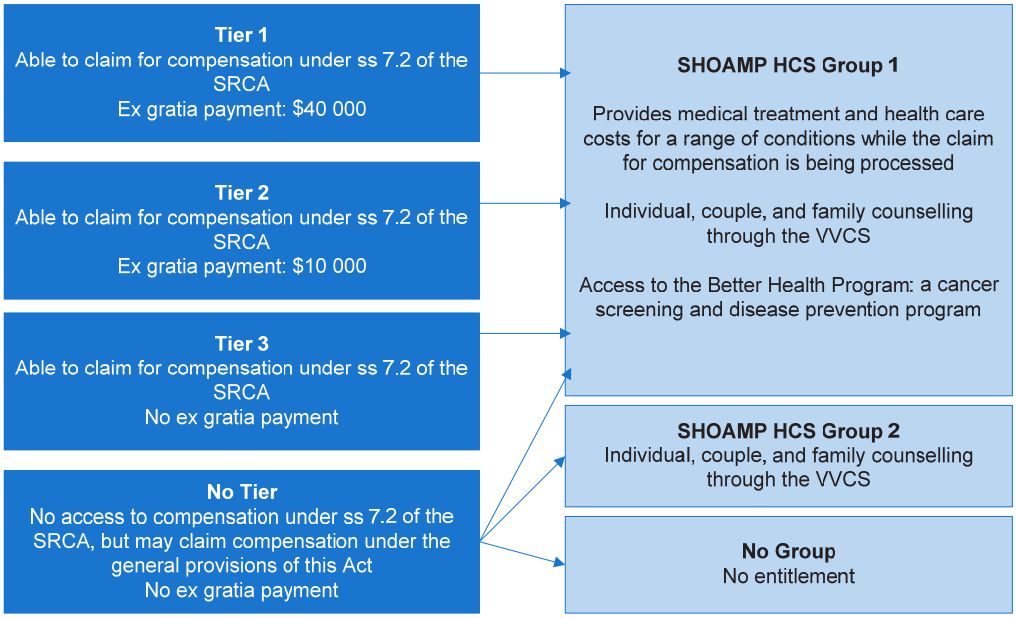
[90] Study of Health Outcomes in Aircraft Maintenance Personnel (SHOAMP) which reported in 2004. The SHOAMP Health Care Scheme provides interim health care for conditions linked to F-111 fuel tank maintenance work and access to counselling, until a compensation claim is determined.

[91] Department of Veterans' Affairs, *'Factsheet F111-01: Overview of benefits and schemes for F-111 workers'*, January 2012. Some of the RAAF personnel may have an entitlement to compensation under the VEA as well as under the SRCA.

[92] Department of Veterans' Affairs and Department of Defence, *F-111 fuel tank maintenance website* [Internet], available from <http://f111.dva.gov.au/Tier.htm#what_is> [accessed 12 November 2012].

Figure 3.1

Outcomes of Tier classification



Source: ANAO analysis.

3.6 All claimants who are accepted as Tier 1, 2, or 3 are eligible to submit a claim for compensation under Subsection 7(2) of the SRCA. This is a more beneficial section of the SRCA. Under subsection 7(2), DVA will accept liability for a Tier classified person who has been diagnosed with one of the 31 health conditions which have been determined to be related to F-111 fuel tank maintenance work.

3.7 All Tier applicants are also classified for entry into the SHOAMP HCS (see Table 1.2) and can receive health care treatment costs for specific conditions. They are classified as either: SHOAMP Group 1, Group 2, or No Group. All Tier 1, 2 and 3 classifications are automatically eligible for SHOAMP Group 1—they are personnel who performed F-111 fuel tank maintenance or related tasks. Those classified as Group 2 are immediate family members of Group 1 recipients, or other personnel located at RAAF Base Amberley during the F-111 deseal/reseal programs. Groups 1 and Group 2 can access counselling from VVCS. Some Tier applicants will be determined to be ineligible for any of these benefits, for example, No Group means the person does not obtain access to the SHOAMP HCS, the Better Health Program, or counselling.

Completed Tier classifications and Tier reviews

3.8 As at 10 January 2013, DVA had completed:

- Tier classification for 483 cases which had been received since May 2010 when DVA recommenced Tier classification;
- of the 483 cases, 468 were determined.[93] Of these 468 determinations, 377 cases (81 per cent) were successful and were classified as either Tier 1, 2 or 3;
- in response to Recommendation 7[94], DVA also reviewed 521 previously rejected Tier applications. These were unsuccessful applications from the previous 2004–05 government response to the findings of the SHOAMP report and the subsequent F-111 deseal/reseal ex gratia scheme; and
- by 30 September 2011, DVA had reviewed all 521 cases against the expanded Tier 3 definition, and the Tier 1 and 2 definitions. Of these, 370 cases (71 per cent) were successful and were classified as either Tier 1, 2 or 3.[95]

3.9 Between May 2010 and 10 January 2013, DVA completed a total of 989 Tier classification decisions and accepted 747 (76 per cent) as Tier classified.[96] Under the previous ex gratia scheme, 762 applicants were classified as Tier 1, 2, or 3. As a result, a total of around 1500 applicants achieved Tier classification by January 2013.[97] This represents 48 per cent of the estimated 3100 potentially affected fuel tank workers.[98] DVA reported that, by September 2012, the rate of applications had slowed. In 33 months DVA has completed a large number of Tier classification decisions and all of the Tier reviews for ex fuel tank workers with a high rate of successful classification as either Tier 1, 2, or 3.

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93 This means that the cases were finalised as a decision by DVA to grant or reject a Tier classification had taken place.

94 The JSC's Recommendation 7 was that a review be undertaken of those cases in which a statutory declaration has been rejected by DVA in determining an F-111 ex-gratia application [and] that the committee [the JSC] be provided with a copy of that review.

95 Department of Veterans' Affairs, 'Representations to the Australian National Audit Office', September 2012, p. 15.

96 Department of Veterans' Affairs, 'Fifth progress brief on the implementation of the Government response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal workers and their families', 6 February 2013, p. 2.

97 DVA advised that there were a total of 1509 determinations made for 1509 people. Approximately 20 people have had two determinations—as they could apply both as Defence employees and as employees of the civilian contractors. (This did not confer additional benefits on those 20 people). Some applicants belonged to both the group of 762 successful applicants under the previous ex gratia scheme and the group of 370 successful applicants under the May 2010 package of support, creating this overlap.

98 Department of Veterans' Affairs, 'Representations to the Australian National Audit Office', September 2012, p. 9.

ANAO examination of Tier classification processes

3.10 The work undertaken by the RAAF and DVA, when investigating claims and making Tier classification decisions, can be complex and difficult. There are considerable difficulties in obtaining evidence for the Tier classification decisions. This is because the investigations relate to work performed between 1973 and 2000. Due to the time elapsed since the cessation of F-111 fuel tank maintenance, applicants' memories can be stretched to provide accurate information and the RAAF records of service are incomplete or may no longer be available.[99] As part of its examination[100], the ANAO encountered cases where the RAAF Technical Team had gone to considerable lengths to contact ex fuel tank workers and either seek a statutory declaration or to provide evidence of a person's involvement. Finally, the determination of Tier classification claims is sensitive as there is a history of dissatisfaction by fuel tank maintenance workers with the previous ex gratia scheme's outcomes.

Method

3.11 The ANAO reviewed 47 Tier classification applicant case files to examine the administration of Tier processing and in particular the management and weighing of evidence and reasons for decisions. The ANAO did not conduct a review of the merits of individual cases (see Table 3.1).

3.12 DVA advised that as at 3 December 2012, for the 521 reviewed cases, 36 claimants had asked DVA to reconsider their claim; and of the new Tier claims since May 2010, 11 claimants had requested reconsideration. To test the adequacy of reconsideration of these cases, the ANAO examined eight of the fifteen Tier classification cases which had been reconsidered by the DVA Assistant Secretary, since May 2010. The ANAO observed that the sample of eight cases demonstrated an effective process of reconsideration.[101]

3.13 Of the 47 cases in the ANAO's Tier classification sample, 37 (79 per cent) were unsuccessful cases, and 10 (21 per cent) were successful cases. Unsuccessful cases were deliberately chosen as it was considered that

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[99] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families,* June 2009, Canberra, pp. 103–107. DVA advised the Commonwealth Ombudsman that 'the complete maintenance documentation for F-111 C and G aircraft exist from 1992 until now'. Acting Secretary Mr Ed Killesteyn, letter to the Commonwealth Ombudsman, 9 July 2007.

[100] Some aspects of the Tier classification process have also been considered by: the Commonwealth Ombudsman who made some observations on the F-111 ex gratia payment scheme in the context of a report on Executive Schemes in 2009; and the JSC report in June 2009.

[101] These reconsidered cases are marked as 'additional DVA reconsideration cases'.

they may shed more light on the difficulties encountered in Tier classification. The ANAO sorted the cases into three categories: new claims (post May 2010), estate claims, and the 521 reviewed claims (reviewed as per Recommendation 7). Cases were then randomly selected from each category to form the weighted sample for examination.[102]

3.14 The tool developed and used by the ANAO to examine the cases was based upon the: instructions contained in the Program Guidelines for the management of evidence; the MRCC Guidelines for using statutory declarations[103]; the Checklist for F-111 Tier Classification File approved by DVA in December 2010 and the RAAF Technical Team's Technical Assessment Report.[104] The ANAO also used the Administrative Review Council's best practice guide on the management of evidence and decision-making.[105]

Table 3.1

Tier classification case files reviewed by the ANAO

Category	Estate (new and reviewed)	Reviewed		New (post May 2010)	
Tier outcome [total files]	Unsuccessful [n=24]	Successful [n=370]	Unsuccessful [n=151]	Successful [n=354]	Unsuccessful [n=84]
Number reviewed	5	4	18	6	14
Total Tier classification cases examined by ANAO					47
Additional cases reconsidered by DVA and examined by ANAO					8
Total cases examined by ANAO					55

Source: ANAO analysis.

Note: The additional cases were reconsidered by the DVA Assistant Secretary

[102] An unsuccessful case was defined as a new case with no entitlement or a review case with no change to entitlement.

[103] Military Rehabilitation and Compensation Commission, 'Guidelines for Using Statutory Declarations in Applications for Tier Classification', May 2010.

[104] The Checklist for F-111 Tier Classification File and the RAAF's Technical Assessment Report are the key decision documents in each case file. They should contain a record of the gathered evidence and their weights, as well as the Tier classification decision.

[105] The Administrative Review Council, *Decision making: Evidence, facts and findings,* Best-practice guide, No. 3, August 2007, Commonwealth of Australia, Canberra.

Analysis of Tier classification decision-making

3.15 The RAAF Technical Team and DVA delegate have an effective and collaborative relationship which has facilitated the preparation of reports for consideration by the DVA delegate. A number of cases explicitly demonstrated that the DVA delegate made an independent decision, after having considered the RAAF's recommendation.

3.16 Thirty six of the 47 (77 per cent) examined cases broadly demonstrated satisfactory adherence to DVA Tier processing guidelines and decision-making principles. The Program Guidelines require the DVA delegate to consider official Defence records and this was done for every case examined unless the applicant was a civilian. If the BOI evidence was available, this was also included in the file. The examination of cases showed that in many cases the investigation and decision were reasonably straightforward.

3.17 The government response stated that a statutory declaration would be accepted only if there was a second corroborating statutory declaration from a commanding officer, or superior officer, or a co-worker with a successful Tier 1, 2 or 3 classification. DVA's Program Guidelines interpret that response in a beneficial way, stating that 'DVA, with the assistance of the RAAF Technical Team, is to make efforts on behalf of applicants to locate primary, secondary and tertiary evidence ... and to assist with locating third persons for supporting statutory declarations'.[106]

3.18 While statutory declarations have been used to inform decision-making, there remain some difficulties in obtaining supporting statutory declarations as claimants have been unable to supply the correct or complete names for co-workers, supervisors or commanding officers and their contact details. The RAAF Technical Team has continued to search for corroborating statutory declarations as it 'reduced the burden on applicants'.[107]

3.19 Where relevant, decision letters informed the complainant of the role and contact details for the Commonwealth Ombudsman.[108] Several cases demonstrated a concerted effort to assist the claimant. For instance at a VVCS Lifestyle Management Program, a claimant's wife asked the DVA delegate to

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[106] Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', January 2012, paragraph 20, p. 4.

[107] Department of Veterans' Affairs, 'Representations to the Australian National Audit Office', September 2012, p. 14.

[108] Two cases did not mention the Commonwealth Ombudsman's role. Both cases were successful Tier 1, and this was not required.

reconsider a claim. Subsequently, an RAAF Compensation Claims Liaison Officer visited the claimant and explained the Tier classification process and the outcome of his claim. As a result, the claimant decided not to seek a formal reconsideration of his case.

Timeliness: Tier processing and the 521 reviewed cases

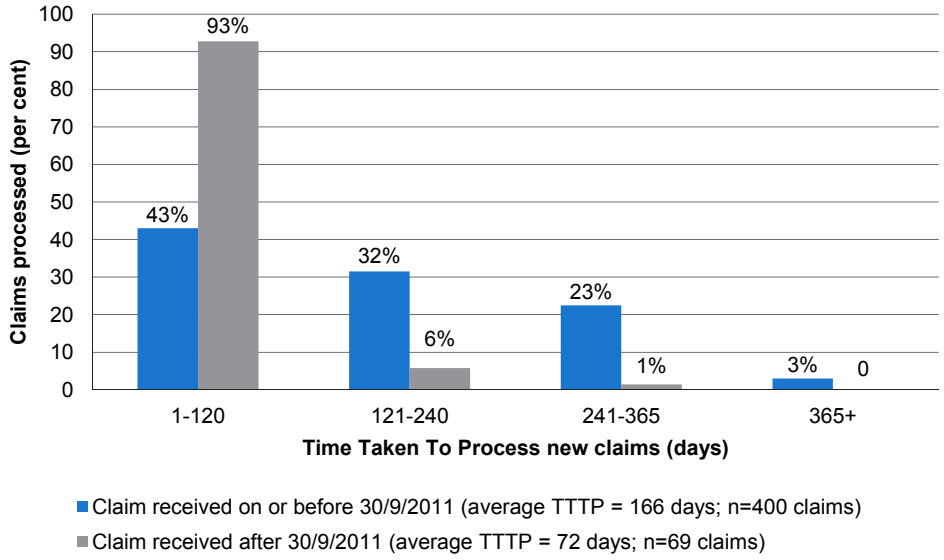
3.20 DVA has not published a standard timeframe for the processing of Tier classification applications, however the general standard under the SRCA in DVA's Service Charter is to 'determine claims for initial liability...on average, within 120 days of lodgement, or inform you if the determination is going to be delayed'.[109] The ANAO was provided with information on the time taken to process (TTTP) data from 11 June 2010 to 5 December 2012.

3.21 The average TTTP for new Tier application cases was 152 days. DVA/RAAF attributed this higher TTTP to their initial focus on completing the 521 review cases as a priority, in order to provide a quicker outcome for these older cases and enable subsequent access to compensation and health care. All of the 521 reviewed cases were completed by the end of September 2011. Figure 3.2 splits the TTTP data into applications received before, and after, 30 September 2011 to examine the impact of the 521 reviewed cases on the TTTP new claims.

[109] Department of Veterans' Affairs, *'Service Charter'*, November 2006.

Figure 3.2

Time taken to process claims



Source: ANAO analysis of DVA data.

Note: This table will have rounding errors.

3.22 The ANAO observed that the average TTTP new Tier application claims, prior to the completion of the 521 cases, was 166 days. By contrast, the average TTTP for new claims, received after September 2011, was 72 days. Further, 93 per cent of claims, submitted after September 2011, were completed within 120 days. Overall, the TTTP for new claims decreased once DVA completed the 521 review cases; a rate of processing which is within DVA's Service Charter standard.

3.23 For the 521 reviewed cases, DVA informed the ANAO that accurate TTTP cannot be provided as the commencement date for each review was not recorded. DVA provided data on the progress of review cases from May 2010 until their completion. The data shows that 69 per cent of the review cases were completed by September 2010, and 79 per cent of the review cases were completed by the end of 2010. All the review cases were completed by the end of September 2011.

Administrative issues relating to Tier classification cases

3.24 DVA's Program Guidelines state that each file must contain a Technical Assessment Report, decision letter, evidence used in the assessment and its weight, reasons for rejecting evidence, a record if no evidence could be found,

and file notes recording details of all phone conversations with the claimant or third parties. The files should be folioed and information sources referenced and dated. In addition, a decision-maker should 'not base a decision on a fact without evidence for that fact'.[110]

3.25 Issues relating to the application of the Program Guidelines and decision-making principles were identified in 11 out of the 47 cases (23 per cent) examined by the ANAO.[111] [112] Some of these cases contained multiple issues. The issues identified appeared to be representative of issues that arise in Tier processing, noting that the sample was weighted with an emphasis on unsuccessful cases.

3.26 The following issues arose regarding the investigations:

- a lack of clarity and difficulty in the interpretation and application of some terms in Tier Definitions and additional information—such as 'usual place of duty';
- inadequate recording of some evidence, particularly telephone conversations;
- inadequate recording of the process of weighing the evidence;
- some technical recommendations were based upon information and technical opinions in the Technical Assessment Report for which the source was not referenced;
- not consistently providing claimants with a clear explanation or reasons for decision;
- incomplete folioing of records; and
- the RAAF Technical Team's use of oral history as provided by F-111 fuel tank maintenance participants.

3.27 The ANAO's analysis and findings are consistent with similar analyses of complaints about the previous F-111 ex gratia payments scheme, and Tier investigation and classification, conducted by the Commonwealth

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[110] Administrative Review Council, *Decision Making: Evidence, Facts and Findings*, Best-practice guide, No. 3, August 2007, p. 1.

[111] This count does not include the case files with incomplete folioing, or minor suggestions for improvement.

[112] Some of these issues were also identified in the original investigation of the eight cases which resulted in reconsideration by a senior DVA delegate—the Assistant Secretary.

Ombudsman and reported in 2007 and 2009.[113] The Ombudsman raised issues such as:

- the standard of record keeping and the non-recording of telephone calls, including calls to claimants, and calls to supervisors used as evidence;
- the identity of the author of handwritten comments on file documents was not always apparent;
- 'technical assessments' did not always reference the source of information relied upon;
- it was not always clear what weight the decision-maker placed upon different pieces of evidence, and how the evidence led to a conclusion; and
- letters to claimants did not indicate the weight given to various pieces of evidence.

3.28 The ANAO discussed its findings of the reviewed cases with DVA and the RAAF in January 2013. DVA and the RAAF acknowledged that there have been some shortcomings with: the documentation of evidence gathering, evidence weighing, drawing of inferences from facts, and referencing technical information where used. DVA also acknowledged that some of its decision letters, particularly in 2010 and 2011, could have been more expansive as to reasons for rejections. DVA and the RAAF advised however that the failure to implement these processes has not affected the Tier decision. DVA and the RAAF are of the view that in all the cases reviewed by the ANAO, there were no incorrect Tier decisions and that, while the documentation and referencing of evidence and inferences could have been improved, enhanced documentation would not have affected the tier outcome. As noted in paragraph 3.11, the ANAO has not expressed an opinion on the merits of individual cases, and has focussed instead on examining the administration of Tier processing decisions.

[113] Commonwealth Ombudsman, *Executive Schemes: August 2009*, Report No. 12/2009, The Commonwealth Ombudsman, Canberra, Australia; Commonwealth Ombudsman, Letter to the Secretary DVA, 'Observations of the administration of the F-111 deseal/reseal ex gratia scheme', 21 May 2007.

Tier definitions and the role and impact of 'additional information'

3.29 The Tier classification process relies upon Tier Definitions collectively developed by Defence and DVA and approved by the MRCC. The Tier Definitions were originally developed in 2005 with an imperfect knowledge of F-111 deseal/reseal activities. In early 2010, to implement the Government's package of support, Defence and DVA redefined Tier 3, category 1 of the Tier definitions. In April 2010, the MRCC approved these changes, which enabled DVA to apply the new tier definitions from May 2010 when the government response was announced. Later in 2010, and again in 2011, DVA returned to the MRCC, which approved further clarified definitions of 'fuel tank entry' and 'usual place of duty'; and approved the inclusion of surface finisher (spray painter) trainees and fire fighter trainees in the Tier Definitions.[114]

3.30 The Tier Definitions are incorporated into 12 Categories which cover different aspects of F-111 fuel tank maintenance including: the four formal deseal/reseal programs, pick and patch work, the related trades and duties, and the locations where the work was performed. These Tier Definitions are further supported by 'additional information' which is intended to clarify aspects of the definitions.

Guidance on 'additional information'

3.31 With regard to the additional information, the Program Guidelines and the F-111 website state that 'eligibility is determined by the actual Tier definition, not the additional information itself'. DVA advised the ANAO that the additional information does in fact form an important part of the Tier definition as it ensures the intent of the tier category is met. DVA acknowledges that the published guidance could have been clearer and has advised it will update the Program Guidelines and the F-111 website to clarify relevant processes and documentation.

Usual place of duty

3.32 'Usual place of duty' is referred to in Tier definitions for Category 4 (boiler and plant attendants), Category 6 (fire fighters), Category 7 (rag hangar) and Category 8 (Hangars 255, 260, 270 and 278). The definition of usual place of duty includes a place where the person was either posted or attached, or was directed or 'required to be on a regular basis for a set time or day'—not a

[114] Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', 17 January 2012, paragraph 10.

site visited briefly or casually. Also, the 'additional information' for Categories 7 and 8 states 'this does not include those personnel who may have regularly visited these places in the course of their duty'.

3.33 The ANAO identified five cases (five out of the total 55 cases, or nine per cent) where a claimant went to one of these hangars as part of their routine duties, but did not receive Tier classification as it was not considered to be their 'usual place of duty'. These investigations had not considered whether the person was discharging their duties in a hangar on a regular basis for a set time or day. In January 2012, the RAAF Technical Team confirmed that while they had relied on determining where the person was posted or attached, they had not investigated or considered if the person was at a worksite on a regular basis (as directed) to discharge their duties.

Direct support

3.34 The additional information for Categories 7 and 8 includes the requirement that eligible people had provided 'direct support to those staff entering fuel tanks'. DVA confirmed that there is no definition of 'direct support', but the intention of the category is to cover personnel who worked in very close proximity to the fuel tanks, such as 'babysitters'—that is, staff who sat outside fuel tanks to ensure the safety of the worker inside the tank. DVA and the RAAF agreed that Categories 7 and 8 were imprecise and there would be benefit in clarifying these Category Tier Definitions.

Recommendation No.1

3.35 The ANAO recommends that DVA seek advice from the Military Rehabilitation and Compensation Commission in order to obtain a more precise meaning of the terms: 'usual place of duty' and 'direct support', which are employed in the Tier definitions for Categories 7 and 8, and are used to determine the eligibility for support for people who worked in the hangars where F-111 fuel tank maintenance was performed.

DVA response:

3.36 *Agreed. DVA agrees to seek advice from the Military Rehabilitation and Compensation Commission with respect to the terms `usual place of duty' and `direct support'. DVA acknowledges that these terms are imprecise and further clarification would assist with the interpretation of the tier categories 7 and 8. DVA will work with the RAAF to clarify these terms.*

Missing evidence and record keeping

3.37 The Administrative Review Council's best practice guide on decision-making states that 'when evidence is provided orally—as during an interview or telephone call—the decision maker should make a file note or written record of the interview at the time or soon afterwards, while the memory is fresh. The particulars recorded should be the name, position title and address of the person spoken to, the date, time and place of the conversation, and the main pieces of information provided'.[115]

3.38 The ANAO observed that eight out of 47 cases had evidence missing from the record. The problems included missing telephone records—which were considered evidence and were referenced in the Technical Assessment Report. The Technical Assessment report in an additional DVA reconsideration case referred to two phone calls made by the RAAF Technical Team as evidence; these phone calls were not documented in the file. In some case files, records of conversations are insufficient, and some are recorded on post-it notes—an inadequate means of recording evidence. As a result of this examination, DVA advised that it and the RAAF have put in place improved record keeping practices, and will amend the Program Guidelines accordingly.

3.39 The ANAO also observed that 32 out of 47 case files were almost fully or fully folioed. A further nine were partially folioed, and five case files were not folioed at all.[116]

Inadequate consideration or documentation of evidence

3.40 An administrative decision is 'considered to be well founded if it has a proper basis in the assessment of evidence and the application of policy' and 'a well-founded decision is one based on relevant evidence and the findings that can be made from that evidence'.[117] The ANAO observed that 12 of the 47 cases in its sample showed signs of inadequate consideration of the evidence, or inadequate documentation of such consideration.

3.41 The Technical Assessment Report usually only mentioned one Category against which the applicant's claims were considered. However, if unsuccessful for that Category, the applicant may still be eligible for

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[115] Administrative Review Council, *Decision Making: Evidence, Facts and Findings*, Best-practice guide, No. 3, August 2007, p. 3.

[116] On 1 March 2013, DVA informed the ANAO that all files reviewed by the ANAO have subsequently been folioed.

[117] Australian Government Solicitor, 'Administrative law training module—advanced: Principles of decision-making', 2010, p. 33.

consideration against another Category and that consideration should be recorded. DVA advised the ANAO that while these Tier cases had been considered against all relevant categories, the consideration processes were not always fully documented.

Inferring facts

3.42 The Administrative Review Council's best practice guide states that:

> Some facts can be logically inferred, or deduced, from other facts on the basis of strong probability, without the need for direct evidence. If, for example, the known facts are that a person worked in Ireland in 2005 and in Australia in 2006, it could be inferred that the person travelled to Australia at some time between those dates. Many gaps in direct evidence are filled by inferences. An inference that might be adverse to a person who will be affected by a decision should first be put to that person, so that they have a chance to respond.[118]

3.43 Several cases showed problems with the process used by the RAAF Technical Team when inferring facts that were not present in the file, and there were indications that they did not clarify their inference with the applicant. While DVA and the RAAF conceded that the evidence inferred by the RAAF team could have been formally documented, they advised that:

> In situations where the decision is straightforward, or the inference is common knowledge, it would not be practical nor provide added benefit to the Tier determination process.[119]

3.44 Where the inference of a fact may have a significant effect on the final decision, it would be better practice if DVA or the RAAF Technical Team contact the claimant to seek a response to the inference they are intending to make.

Weighing evidence

3.45 Guidance on weighing the evidence used to reach a Tier classification decision is contained in: the Program Guidelines[120], DVA's Checklist for F-111 Tier Classification File (the Checklist), and in the MRCC's Guidelines for Statutory Declarations.[121] The Program Guidelines require that all the evidence

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[118] Administrative Review Council, *Decision Making: Evidence, Facts and Findings*, Best-practice guide, No. 3, August 2007, p. 3.

[119] Department of Veterans' Affairs and Royal Australian Air Force, advice to the ANAO, 22 January 2013, p. 18.

[120] Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', Attachment D.2, Evidence, 17 January 2012.

[121] Military Rehabilitation and Compensation Commission, 'Guidelines for Using Statutory Declarations in Applications for Tier Classification', May 2010.

for Tier classification is considered and the decision-maker must be satisfied that on the balance of probability, the available evidence satisfies the eligibility criteria.[122] The balance of probability is the standard of proof used in civil law cases. Recording the weight assigned to evidence is important, as this enables a decision to be understood and explained. This in turn enables a decision letter to establish how the evidence and merits of a case were determined.

3.46 In the sample of examined files, the ANAO observed that the section of the Checklist dealing with the weight given to pieces of evidence was frequently incomplete. In some cases, the RAAF Technical Team appeared to rely upon oral history provided by known ex fuel tank workers to confirm or deny an applicant's evidence. This oral history appears to have been given significant weight, but that weight is inferred and is not documented. At times the ANAO was unable to see the weight that had been given to various pieces of evidence by the RAAF team in providing a Technical Assessment Report and recommendation, or the delegate in making a decision.

3.47 There was some inconsistency in DVA's published guidance for Tier processing. The Checklist in its sections entitled 'Evidence' and 'Statutory Declarations', offers the option to record the weight given to the statutory declarations as primary, secondary or tertiary. However, the evidence weighing guidelines in the Program Guidelines stipulate that statutory declarations can only be classed as tertiary evidence. DVA advised that it has amended the Checklist to clarify that Statutory Declarations are considered to be tertiary evidence.

3.48 Additionally, the Program Guidelines require that primary evidence, which is sourced from Defence (or employer) evidence, is given the greatest weight. Frequently, this evidence requires interpretation, meaning or value to be applied. The RAAF Technical Team attempt to place the evidence within the context of their known history of F-111 fuel tank maintenance. Therefore it may be an opinion, albeit informed or specialist, of matters that may have occurred a long time ago.[123] Care is required in assigning appropriate weight to such evidence.

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[122] ibid, paragraph 7.

[123] The Department of Veterans' Affairs has acknowledged the role of the RAAF Technical Team in 'assisting DVA in accessing and interpreting these records'. Acting Secretary Mr Ed Killesteyn, 'Letter to the Commonwealth Ombudsman', 9 July 2007.

3.49 Finally, it was not clear in the guidance that primary evidence is intended to overrule tertiary evidence, as the Guidelines for Statutory Declarations state that 'where primary or secondary evidence is found which contradicts the evidence provided in the statutory declarations, the competing evidence will be considered'.

3.50 The RAAF and DVA agreed that evidence weightings were not consistently and explicitly recorded in the case file and checklist. The RAAF and DVA also noted that in straightforward cases, less documentation is required of the process of weighing the evidence. DVA has advised that it will revise the Program Guidelines to provide more detailed advice on how to weigh and document evidence in the Technical Assessment Reports and decision letters.

Expert evidence—Technical Assessment Reports

3.51 The Administrative Review Council states that 'expert evidence usually consists of a factual component and opinion evidence'—each aspect can be evaluated differently.[124] The role of the RAAF Technical Team is to search for, record, and interpret the evidence. At times the RAAF Technical Team in its Technical Assessment Report would make a statement about the likelihood of an event or fact occurring based upon their knowledge of the history of F-111 fuel tank maintenance. However, it is not clear from the case record whether they are providing an opinion, or are referring to a verifiable reference source, such as either their own records, or another case, or a BOI extract.

3.52 During the course of the audit, the RAAF and DVA agreed that there would be benefit in the RAAF Technical Team, in future Technical Assessment Reports, indicating whether they are providing an expert opinion, or are referring to an external fact—and if so providing that reference. DVA considers that where there is a lack of official records or information on the F-111 fuel maintenance processes, and the RAAF technical adviser's opinion is all that can be relied upon, there would be value in the RAAF recording this in the Technical Assessment Report.

Reasons for decision in the decision letter

3.53 Recording and providing reasons for decisions is essential for fairness, ensures transparency, strengthens consistency, and promotes Government

[124] The Administrative Review Council, *Decision making: Evidence, facts and findings*, Best-practice guide, No. 3, August 2007, Commonwealth of Australia, Canberra, p. 9.

accountability.[125] It also reminds readers that a court or tribunal can treat a defective statement of reasons as a reliable indicator of a defective decision—a crucial reason for providing a sound decision letter. A decision letter must refer to the relevant evidence, contain the findings, and the reason(s) for the decision.

3.54 The ANAO examined the decision letters to applicants. In some cases, the ANAO observed that the reasons for a decision given in the letter could have been more comprehensive. At times this had led to the claimant seeking a reconsideration of the decision. DVA advised that the Assistant Secretary has worked with the DVA delegate to improve the quality of decision letters, which have improved over time. DVA agreed that it would continue to focus on providing clear decision letters that reflect the applicant's claims, evidence, relative weights given to the evidence, and the reason the decision was made. DVA also advised that the department and the RAAF have addressed some of the errors identified by the ANAO in the Tier case files, such as the documentation of evidence and evidence weighing.[126]

3.55 There would also be benefit in DVA and the RAAF setting out the Tier investigation and decision-making process—including the Technical Assessment Report and consistently completing the Checklist—so that the documents guide and record the consideration of the applicant's claims and evidence.

Review of decisions

3.56 DVA considers that the Tier classification decision made by a DVA delegate is a decision under the F-111 ex gratia payment scheme[127]—that is a discretionary compensation scheme—and that no formal review rights exist for F-111 Tier classification applicants.[128]

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[125] Clayton Utz, *Good decision making for government: Reasons for decisions* [Internet], Clayton Utz, 2006, available from <http://www.claytonutz.com/industry/government_services/docs/GDMG_ReasDec.pdf> [accessed 1 November 2012].

[126] DVA had informed the ANAO that it and the RAAF would only revisit those cases where errors could be rectified without contacting the applicant or other external sources.

[127] The Department of Finance and Deregulation has produced a Finance Circular to provide guidance to agencies on the operation of ex gratia payment schemes. Department of Finance and Deregulation, *Finance Circular No. 2009/09*, 2009, pp. 1 and 4.

[128] Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', 17 January 2012, paragraph 34.

3.57 A decision made under an ex gratia scheme allows no formal review rights as is not reviewable under the provisions of the *Administrative Decision (Judicial Review) Act 1977* (the ADJR Act) because it is not a decision made under an enactment. Nor can the merits of an ex gratia scheme decision be reviewed by the Administrative Appeals Tribunal, and there are very restricted rights of judicial review by the High Court or Federal Court.[129] The Commonwealth Ombudsman is the only administrative law agency which can review a decision under an ex gratia scheme, and can only review the process leading to that decision, not the merits of the decision.

3.58 In 2009, the Commonwealth Ombudsman issued a report which examined discretionary schemes, including the 2005 F-111 ex gratia scheme. The Ombudsman noted that such restricted review and appeal rights 'are of concern' and developed best practice principles which included that agencies develop and ensure that 'there is a process for internal review by an independent officer, preferably with more than one opportunity for review'.[130]

DVA's reconsideration of Tier classification cases

3.59 Since May 2010, DVA has advised unsuccessful Tier applicants that they could seek review of the decision-making process via the Commonwealth Ombudsman, and not a review of the decision itself.

3.60 DVA produced a number of Businesslines (including the 2012 Program Guidelines) which contain the policies and procedures for processing applications for Tier classification. The May 2010 Businessline[131], which informed and guided staff about the 2010 government response and changes to Tier classification, did not mention an applicant's rights of review. However, the current Program Guidelines state that:

- 'all F-111 maintenance workers need to be Tier classified before compensation claims are investigated, as this will confirm whether or not ss 7(2) SRCA can be allied to their claim'; and

[129] Commonwealth Ombudsman, *Executive Schemes: August 2009*, Report No. 12/2009, Commonwealth Ombudsman, Canberra, Australia, p. 4.

[130] ibid., p. 4.

[131] Department of Veterans' Affairs, 'Extension of compensation under subsection 7(2) SRCA to include F-111 fuel tank maintenance workers', 28 May 2010.

- 'there is no formal appeal process available to applicants under ex gratia schemes'.[132]

3.61 DVA's approach to allowing a review or reconsideration of a Tier classification decision has evolved over time. In June 2011, DVA revised its position on offering reviews to Tier applicants, and began advising unsuccessful Tier applicants that DVA would reassess the claim if the claimant could provide additional evidence.[133] Some outcome letters examined by the ANAO advised applicants to contact DVA if they were dissatisfied with the decision, or if they had new evidence. The (2012) Program Guidelines informed DVA staff that requests for reconsideration of the original decision are to be referred to the Assistant Secretary. In practice therefore, DVA has allowed some review or reconsideration of decisions.

3.62 DVA has advised that:

> Since May 2010, some applicants have submitted further evidence and requested a Tier reassessment. On every occasion where new evidence has been submitted, the case has been re-assessed. In phone calls with unhappy clients the hotline staff or delegate have offered the client the opportunity to submit new evidence.[134]

3.63 The updated MoU between Defence and DVA for F-111 Tier classification, which was signed in January 2013, contains a new clause which states that if the applicant does not agree with the Tier determination, they can request a reassessment of the Tier decision, to be made by another DVA staff member. This is a significant development in DVA's changed approach, and an improvement over its position in June 2011 of offering reconsideration only if the applicant could supply additional information, or had complained.

3.64 However, DVA has not clearly informed applicants that it will reconsider a decision upon request by the applicant, and the advice contained in decision letters has varied. Some DVA decision letters have stated that: 'if you have any queries or concerns about your new Tier 3 classification, the F-111 team would be happy to take your call'.[135] This is not a clear offer of

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[132] Department of Veterans' Affairs, 'Businessline: Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', 17 January 2012, paragraphs 6 and 34.

[133] Department of Veterans' Affairs, '*DVA Factsheet F111-02, Tier Classification and Tier Definitions*', 18 January 2012, <http://f111.dva.gov.au/forms.htm#fact_sheets_forms> [accessed 16 January 2013].

[134] Department of Veterans' Affairs and Royal Australian Air Force, advice to the ANAO, 22 January 2013, p. 17.

[135] Department of Veterans' Affairs, 'Businessline, Policies and Procedures for Processing Compensation Claims Submitted by F-111 Deseal/Reseal Personnel', 17 January 2012, Attachment D.4.g.

review. Other decision letters have stated 'if you are not satisfied with the outcome of the Tier determination and your allocation of Tier 3 classification you may seek a reassessment by DVA. The Department will only reassess your Tier classification on the provision of additional evidence in support of your claim'.[136]

3.65 In contrast to this approach, DVA clearly informs claimants of the rights of review which are available to them under the SRCA. The relevant DVA Factsheet states that:

> You may request a reconsideration if: you do not agree with the decision; you are not satisfied with the reasons given for the decision in your claim; or, you have more evidence to support your claim.[137]

3.66 In the course of the audit, DVA informed the ANAO that it has revised the Tier determination decision letters to inform applicants that they can request a reassessment by DVA. The applicant must state why they think the determination was incorrect and may supply additional information to support their request.

3.67 The ANAO examined eight cases where the applicant had complained about or expressed dissatisfaction with a Tier classification decision and the DVA Assistant Secretary had conducted a reconsideration of the decision. The delegate recontacted the applicant and provided an opportunity for them to contribute further information and at times to clarify the meaning of previously provided information. The decision letters were clear and demonstrated a process of: referring to all of the material evidence, explicitly weighing that evidence, and making a fresh decision having considered the evidence and applying the balance of probability. In some reconsideration cases the delegate did not change the original decision but provided the claimant with a better explanation of the investigation, process of consideration, and the decision.

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[136] Department of Veterans' Affairs, Internal Correspondence, DVA File 1103475, 21 December 2011.

[137] Department of Veterans' Affairs, *'DVA Factsheet MRC27: Reconsideration and Review of Decisions'*, 11 October 2012, p. 1.

The most direct pathway to compensation

3.68 All RAAF and former F-111 fuel tank maintenance personnel, who served between 1973 and 2000, have an entitlement to compensation under, the SRCA and its predecessor Act, for any injury, disease, or death, that can be related to their service.[138] Certain former F-111 fuel tank maintenance personnel also have an entitlement to apply for compensation under the *Veterans' Entitlements Act 1986* (VEA) for injuries, diseases or death related to service.

Subsection 7(2) of the SRCA

3.69 Recommendation 8 of the JSC report provides former F-111 maintenance personnel with enhanced access to compensation under ss 7(2) of the SRCA[139]:

> **JSC Recommendation 8**—That the healthcare and compensation provisions made available under the F-111 ex gratia scheme be in accordance with sub-section 7(2) of the SRCA or the VEA and this apply to the widened group in accordance with the recommendations in this report.
>
> **Government Response**—The recommendation is accepted to the extent that eligible personnel defined in Recommendation 1 will have enhanced access to health care and compensation pursuant to sub-section 7(2) of the SRCA for the 31 conditions identified by the SHOAMP and access to the SHOAMP Health Care Scheme.[140]

3.70 As discussed previously, (see paragraph 3.6) ss 7(2) of SRCA provides a more beneficial standard of proof for former F-111 maintenance workers who are classified by DVA as either Tier 1, Tier 2, or Tier 3, and the Government accepts liability for 31 medical conditions without the need to establish a causal link to service.[141] For the MRCC to allow access to the provision, there must be a statistically increased rate of disease in an exposed group when compared with a control, or non-exposed group who worked in other employment in the place where the exposed group was employed.

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138 Department of Veterans' Affairs, 'Representations to the ANAO', September 2012, p. 4.

139 Expanding the definition of eligible personnel that could access subsection 7(2) of SRCA took place through the MRCC on 17 May 2010. The original decision to invoke subsection 7(2) of SRCA occurred in 24 August 2005.

140 Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 7.

141 Department of Veterans' Affairs, 'Representations to the ANAO', September 2012, p. 5.

3.71 The list of 31 conditions includes certain dermatological, psychological, neurological and gastrointestinal disorders as well as malignant neoplasms (cancers) as originally recognised under the Interim and SHOAMP HCSs.[142] As at 10 January 2013, the most commonly accepted conditions under ss 7(2) of the SRCA were, by rank order: mental disorders, gastrointestinal conditions, neurological conditions, cancers, and skin conditions.[143]

3.72 When a claim for compensation is successful, claimants may be entitled to a range of compensation payments, such as payments for: permanent impairment, incapacity, medical treatment, household and attendant care services, and death benefits for dependents.[144]

3.73 From the Government's May 2010 Budget announcement until January 2013, DVA has provided the following benefits to former F-111 deseal/reseal workers and their families under the SRCA:

- as at 14 January 2013, 206 Tier clients have received compensation totalling $11.3 million;
- as at January 2013, 456 claims for payment of Permanent Impairment compensation following acceptance of liability had been assessed, with 65 more to be determined[145]; and
- as at 14 January 2013, health care expenditure under the F-111 specific schemes, including VVCS programs, was $647 000.

3.74 Further, DVA advised that from 10 May 2010 to 13 January 2013, 94 conditions for 29 F-111 deseal/reseal or tier classified claimants had been determined under the VEA by the F-111 Compensation Team. The VEA's Statements of Principles do not have provisions for conditions specifically due to F111 fuel tank maintenance and there are therefore no special provisions for the determination of deseal/reseal claims under the VEA. However, these claims have been processed by the F-111 Compensation team in parallel with SRCA claims for ease of investigation. Fifty-four of these conditions were

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142 Department of Veterans' Affairs, 'Representations to the ANAO', September 2012, pp. 5–6.

143 ibid., p. 13.

144 Department of Veterans' Affairs, *Military Rehabilitation and Compensation Information Booklet,* October 2011, DVA, Canberra, p. 33.

145 Department of Veterans' Affairs, 'Fifth Progress Brief on the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families', 6 February 2013, pp. 2–5.

accepted as related to non-deseal/reseal service in accordance with the relevant Statement of Principles.[146]

SHOAMP Health Care Scheme and the Better Health Program

3.75 Recommendation 9 of the JSC report potentially expanded access to healthcare through the SHOAMP Health Care Scheme (SHOAMP HCS) and the Better Health program:

> **JSC Recommendation 9**—That the cut off date requiring applicants for the SHCS to submit claims prior to 20th September 2005 be removed. That all claims for SHCS received by DVA and rejected because of the September 2005 date be reviewed.
>
> **The Government accepts the recommendation**—The removal of the closing date of 20 September 2005 from the SHCS will enable new personnel to apply for access to the SHCS, after submitting a claim for compensation and makes allowance for those health conditions that have a latency period before onset. This will enable a person to receive treatment through the SHCS at the time that the condition becomes evident and provide access to the Better Health Program. Applications rejected because of the closure date will be reviewed and new applications will be accepted.[147]

3.76 The SHOAMP HCS is available to eligible F-111 workers who have submitted a compensation claim for one of the listed ss 7(2) conditions. Treatment for claimed conditions is covered by the scheme during the compensation determination process. Applicants continue to receive treatment for conditions not accepted unless the determination is: no condition found, no incapacity found, or they have withdrawn their claim.[148] In February 2013, DVA reported that since May 2010, 271 people had registered for the reopened SHOAMP HCS. All were accepted into the scheme and total SHOAMP expenses from May 2010 to January 2013 were $182 000.[149]

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146 ibid., p. 3.

147 Australian Government, *Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families,* 13 May 2013, p. 7.

148 Department of Veterans' Affairs, 'Fourth Progress Brief on the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Parliamentary Inquiry into RAAF Deseal/Reseal Workers and their Families', No. B12/0436, July 2012, p. 8.

149 Department of Veterans' Affairs, 'Fifth Progress Brief on the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families', 6 February 2013, p. 4.

3.77 DVA also reported that 209 of those 271 people have accessed the Better Health Program, introduced in February 2007. The initiative is a voluntary GP-based program that provides participants with cancer screening and health information to promote disease prevention. Total expenditure under the Better Health Program from May 2010 to January 2013 was $117 000.[150]

Access for deceased estates to the ex gratia scheme

3.78 In the 2005 ex gratia scheme, the Government established eligibility for a deceased estate to an ex gratia payment, if the deseal/reseal participant had died on, or after, 8 September 2001.[151] The JSC examined the possible exclusion of some deceased estates from the ex gratia scheme because of the cut-off date:

> The Committee recognises that the RAAF went to significant efforts to determine the number of deaths that have occurred of former personnel in DSRS [Deseal/Reseal] programs. It did so as part of the identification process of former DSRS staff for the BOI. The Committee appreciates that Defence recognised that this date has precluded some families of some former DSRS personnel from accessing the ex gratia payment.[152]

3.79 Defence advised the JSC that it could give consideration to removing the cut-off date for deceased estates, and that the number of cases was likely to be small.[153] Recommendation 10 of the JSC report related to removing the cut-off date:

> **JSC Recommendation 10**—That the requirement excluding estates of those who died prior to 8th September 2001 from accessing the ex gratia scheme be removed. Those estates of former personnel with qualifying service in accordance with the scheme and these recommendations be eligible for support under the ex gratia scheme.
>
> **The Government accepts the recommendation**—Estates of eligible former personnel who died before 8 September 2001 will be able to apply under the ex gratia scheme. It needs to be established that the former RAAF worker had

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150 ibid., p. 4.

151 The Department of Veterans' Affairs also informed the JSC during its inquiry that it is usual for government policies to put in place limitations on claims; and that to provide a generous date of effect 8 September 2001 was chosen as this was the first time that the ADF had publicly admitted possible liability.

152 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 109.

153 ibid., p. 109.

eligibility as Tier 1 or Tier 2 in accordance with the scheme and the new accepted recommendations.[154]

3.80 Since May 2010, DVA has completed 28 reviews of previously received deceased estate claims. This resulted in:

- one deceased estate applicant receiving Tier 1 classification and an ex gratia payment; and
- a further 14 applicants receiving Tier 3 classification, 13 of which were ex-ADF members.

3.81 DVA also received and determined 25 new applications from deceased estates. This resulted in:

- four applicants receiving Tier 1 classification and an ex gratia payment; and
- a further 11 applicants receiving Tier 3 classification.[155]

Conclusion

3.82 In summary, DVA has implemented the government response to JSC Recommendations 1, 2, 7, 8, 9 and 10, as follows:

- Recommendation 1—the Government has expanded the definition of eligibility for Tier 3 status, which has been applied through the review of all 521 previously rejected applications, as well as accepting new applications for Tier classification;
- Recommendation 2—the MRCC issued guidelines in relation to the use and acceptance of statutory declarations and there is evidence that statutory declarations have been used to inform decision-making, albeit with room for improvement in providing guidance to staff on when primary evidence is intended to overrule tertiary evidence. The Guidelines for Statutory Declarations state that 'where primary or secondary evidence is found which contradicts the evidence provided

[154] Australian Government, *Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2013, p. 7.

[155] Department of Veterans' Affairs, 'Fifth Progress Brief on the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families', 6 February 2013, p. 4 of the 'Report Card' as at January 2013.

in the statutory declarations, the competing evidence will be considered';

- Recommendation 7—DVA conducted a review of 521 previously rejected applications for Tier classification. DVA also provided the JSC with a report on the outcome of its review;
- Recommendation 8—eligible pick and patch personnel now have enhanced access to health care and have been granted compensation under sub-section 7(2) of the SRCA for the 31 medical conditions identified by the SHOAMP, and are able to access the SHOAMP HCS;
- Recommendation 9—the SHOAMP HCS's closing date was removed; and
- Recommendation 10—DVA has reviewed deceased estate claims that had been affected by the previous cut-off date and has received and determined new deceased estate applications for Tier classification.

3.83 The ANAO's analysis of 47 Tier classification cases and eight reviewed cases identified a lack of clarity and subsequent difficulty in the interpretation of a key term used to assess eligibility for some of those who did not enter F-111 fuel tanks—the 'usual place of duty'. DVA has advised that it will seek further guidance from the MRCC on some issues of interpretation raised by the ANAO of terms in the Tier definitions.

3.84 The ANAO also observed examples of cases that showed inadequate consideration of evidence, documentation of reasons for decisions, and record keeping. DVA and the RAAF acknowledged that there have been some shortcomings with documentation of evidence gathering, evidence weighing, drawing of inferences from facts, and referencing technical information where used. While such shortcomings do not necessarily invalidate DVA's decision-making in particular cases, DVA has agreed to re-examine some of the decisions where the application was unsuccessful—such as those involving 'usual place of duty', or where significant inferences were drawn from the evidentiary material available. DVA will examine the decision to ensure the adequacy of the reasons, and if the evidence supports a change of decision, DVA will remake the decision.

3.85 Further, DVA and the RAAF agreed to further improve their Tier classification processes and documentation. DVA advised that it has now revised Tier decision letter templates by inserting a paragraph allowing a reassessment upon request by the applicant, and the Program Guidelines will

be revised. More detail on how to document and weigh evidence in the Technical Assessments and decision letters will also be included, as well as the provision of more detailed advice on the use of tertiary evidence. DVA and the RAAF have further supported their staff in their investigation, evidence management, and decision-making tasks, by recently providing training in administrative decision-making.

3.86 DVA considers that the Tier classification decision is a decision under the F-111 ex gratia payment scheme and that no formal review rights exist for applicants. Notwithstanding this position, DVA has over time developed an approach which allows for the review or reconsideration of a Tier classification decision. In May 2010, DVA advised unsuccessful Tier applicants that they could seek review of the decision-making process via the Commonwealth Ombudsman, albeit not a review of the decision itself. In June 2011, DVA revised its position and began advising unsuccessful Tier applicants that DVA would reconsider the claim if the claimant could provide additional evidence. In January 2013, DVA again revised its approach and now offers a reconsideration upon request. While DVA's approach has evolved, until recently the department had not clearly informed applicants that it will reconsider a decision upon request by the applicant.

4. Further support for F-111 fuel tank workers and their families

This chapter examines the support services that DVA, the VVCS and Defence have developed and implemented, as well as Defence's approach to resolving outstanding legal cases brought by ex fuel tank workers.

Further support services

4.1 While the revised Tier processing arrangements are the centrepiece of the Government's response to support former F-111 maintenance workers, DVA, VVCS and Defence have developed a range of other initiatives, and made use of existing facilities, to implement an enhanced package of support. These initiatives included:

- reviewing staff training and the policies for handling vulnerable clients;
- implementing individual and group counselling services;
- reviewing access to respite care services;
- the RAAF Member Support Coordination Office; and
- using mediation to resolve outstanding litigation brought by ex fuel tank workers and their spouses.

4.2 The ANAO examined DVA's implementation of these initiatives.

Staff training and policies for handling vulnerable clients

4.3 For service delivery agencies involved in implementing Government programs, identifying staff training needs and responding to those needs can improve the likelihood that policy objectives will be realised. Providing staff with clear policies for managing client expectations and their welfare, particularly in cases that involve vulnerable clients, can also mitigate the risks of causing harm to those clients and reputational damage to an agency.[156]

4.4 Recommendation 16 of the JSC's report, which was accepted by the Government, centred on its concern about a submission received from the

[156] ANAO, Better Practice Guide—*Implementation of Program and Policy Initiatives: Making Implementation Matter*, ANAO, October 2006, Canberra, p. 43.

Commonwealth Ombudsman, which was critical of DVA's lack of documented administrative procedures to support staff in making their decisions for claims for F-111 ex gratia payments:

> There has clearly been a serious failure of normal process in the administration of the special arrangements applying to F-111 fuel tank repair workers.[157]

4.5 Notwithstanding the JSC's acknowledgement that providing support to clients can at times be difficult, and that very good work is usually provided by DVA, the JSC had put forward a recommendation with two components:

> That a review of DVA staff training be undertaken to ensure a regular high standard of client focused delivery of services occurs. That policies for handling cases of seriously ill patients, especially those in vulnerable circumstances, be reviewed.[158, 159]

4.6 To assess whether Recommendation 16 has been implemented the ANAO examined whether:

- DVA conducted a review into staff training and if any findings from the review were incorporated into policies and procedures to improve the standard of client service delivery; and
- policies for handling vulnerable clients had been reviewed and promulgated to DVA staff.

DVA's review of staff training

4.7 In November 2010, DVA published a status report on the F-111 website, which noted that DVA accepted Recommendation 16 and that relevant staff training had occurred. It also stated that DVA had already taken a range of actions to improve its service delivery and had plans for further action to ensure a high standard of client focused service delivery.[160]

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157 Joint Standing Committee on Foreign Affairs Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 123.

158 ibid., p. 158.

159 One 'worrying' case highlighted by the JSC related to the treatment of a former F-111 maintenance worker. The worker's claim for an ex gratia payment was unsuccessful and the client was informed by DVA of the outcome of their claim while on suicide watch in hospital. DVA advised the ANAO that it had consulted extensively and carefully with the F-111 worker's treating psychiatrist, general practitioner and health professionals, and acted within the advice that it subsequently received, on the understanding that this was the most appropriate time and way to advise the F-111 worker of the tier decision.

160 Department of Veterans' Affairs, 'Progress of the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade Report into the F-111 Deseal/Reseal Workers and their Families', November 2010, p. 8.

4.8 DVA advised that prior to 2010, staff specifically tasked with client service responsibilities within the Rehabilitation and Compensation Division, were provided with training in a 'piecemeal fashion'. In response to Recommendation 16, DVA has redeveloped its training approach and developed a pilot Rehabilitation and Compensation Division, Client Service Learning and Development Framework (L&D Framework)—as a precursor to a DVA wide Client Service L&D Framework.

4.9 The L&D Framework comprises four training components in the areas of: client contact, technical and legislative understanding, DVA systems support, and interpersonal skills. DVA advised that in 2011, it identified a need to further improve its L&D Framework. This was due to a need to improve the quality of decision-making by compensation claims assessors. In response to this DVA introduced and delivered a Quality Decision Training Package to staff.

4.10 In December 2011, the MRCC requested that DVA undertake a review to evaluate and enhance the Rehabilitation and Compensation components of the L&D Framework. This review identified that Rehabilitation and Compensation Division staff should be provided with training which has a greater focus on basic elements, such as: claims management; administrative law; better decision-making; and dealing with conversations.

4.11 Two of the identified topics are relevant within the context of implementing Recommendation 16 and the overall implementation of the F-111 support program. The relevant topics relate to dealing with conversations and training in administrative decision-making. Administrative decision-making forms the core of the work undertaken by DVA and RAAF staff when gathering information and determining a decision following an application for F-111 Tier classification. Effective decision-making requires an understanding of the administrative approach to the handling, recording and weighing of evidence.

4.12 In May 2013, DVA advised the ANAO of the following outcomes arising from DVA's recent review of its L&D Framework. DVA advised that:

- in February 2012, it implemented the following e-learning courses: Managing Challenging Behaviours—with 724 completions; Suicide Awareness—with 672 completions; and Building Resilience—with 746 completions;

- it had provided training on 'conducting conversations' in August 2012, and intends to run further courses during 2013;
- commencing in January 2013, DVA rolled out and is conducting training courses around Australia on claims management, administrative law, and Better Decision Making. Refresher courses will be rolled out in the 2013–14 financial year;
- DVA has conducted approximately 75 workshops on Understanding Military Culture and Veteran's Mental Health—with 1400 attendees;
- the DVA Delegate for tier processing decisions, and senior staff of the RAAF Technical Team, had recently undertaken DVA's new administrative law training course; and
- a business case will be put before the Learning and Development Board, for consideration in the context of funding for 2013–14, to convert the online technical training packages into face-to-face training.

Protocol for Managing the Provision of Advice to Clients at Risk of Self-Harm

4.13 In the November 2010 progress report, DVA reported against Recommendation 16 that staff training had occurred, and a protocol for advising of decisions to seriously ill clients had been promulgated in July 2010.[161] Following a review of DVA's management and coordination of communication with clients at risk of self harm, DVA provided staff with a Protocol for Managing the Provision of Advice to Clients at Risk of Self-Harm (The Protocol).[162] The Protocol was designed to 'ensure that DVA, in accordance with Information Privacy Principle 11(1)(c), has robust, understandable and consistent work practices in managing the delivery of advice to clients at risk of self-harm'.[163] [164]

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[161] Department of Veterans' Affairs, 'Progress of the Implementation of the Government Response to the JSC Report into RAAF F-111 Deseal/Reseal Workers and their Families', November 2010, p. 8.

[162] Department of Veterans' Affairs, 'Businessline: Protocol for Managing the Provision of Advice to Clients at Risk of Self Harm', 13 July 2010.

[163] The *Privacy Act 1988* (Privacy Act) requires that information collected from clients remains confidential and is only used for the purpose(s) for which it was collected. There is an exception to this—if the service provider believes, based on reasonable grounds, that disclosure of personal information is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or of another person, they may disclose that information. See Privacy Principle 11 of the Privacy Act.

[164] Department of Veterans' Affairs, 'Protocol for Managing the Provision of Advice to Clients at Risk of Self Harm', version 1, July 2010, p. 1.

4.14 In May 2011, 11 months after The Protocol's release, the Shadow Minister for Veterans' Affairs, Senator the Hon Michael Ronaldson, questioned DVA as to whether possible transmissions of personal information from the Veterans and Veterans Families Counselling Service (VVCS) to DVA under The Protocol constituted a potential breach of client confidentiality.[165]

4.15 Senator Ronaldson's questions related to The Protocol's directions about how DVA staff should conduct a case conference when a client was identified as being at risk of self-harm, and whether confidential client information obtained by VVCS could be disclosed to DVA staff. The July 2010 protocol stated that:

> A thorough analysis of the advice and surrounding circumstances should be undertaken and this may involve consultation with other stakeholders such as VVCS and/or CLU [Client Liaison Unit].[166]

4.16 In response to Senator Ronaldson, DVA acknowledged that aspects of The Protocol were ambiguous. To address the ambiguity a revised draft protocol was circulated to DVA staff in October 2011. The revised protocol was amended to clarify staff expectations surrounding when and how the involvement of the VVCS should take place, stating that:

> The VVCS can be invited to the conference with the client's express consent. To assist prior to a case conference, VVCS may be able to provide general professional advice to staff on presenting the information about the decision to the client, without the need to know the identity of the specific client.[167]

4.17 In May 2012, after endorsement by the MRCC and consultation with ESOs, a final version of the *Protocol for Dealing with Clients at Risk* (the revised Protocol), was distributed to DVA staff. In August 2012, a desk-top reference card on the revised Protocol was also provided to staff.[168]

4.18 The ANAO considers that Recommendation 16 is implemented. DVA has developed the revised Protocol and has further enhanced the relevant elements of its Learning and Development Framework for staff during 2012 and 2013.

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[165] Australian Parliament, Senate Foreign Affairs Defence and Trade Legislation Committee, *2011-12 Estimates*, 31 May 2011, pp. 141–151.

[166] Department of Veterans' Affairs, 'Businessline: Protocol for Managing the Provision of Advice to Clients at Risk of Self Harm', 13 July 2010.

[167] Department of Veterans' Affairs, 'Protocol for Dealing with Clients at Risk', May 2012, p. 4.

[168] Department of Veterans' Affairs, 'Brief—Protocol for Dealing with Clients at Risk, Issue: Involvement of VVCS in Case Conferencing with DVA', October 2012, pp. 1–4.

VVCS individual and group counselling services

4.19 In its '*Sealing a Just Outcome*' report, the JSC concluded that there was a 'strong case for group counselling to support former F-111 workers and their families.'[169] A major concern was the poor health of many fuel tank maintenance workers and the flow-on effects to their families. In view of this, Recommendation 12 was designed to address the impact of F-111 fuel tank maintenance on families' mental health:

> **JSC Recommendation 12**—That group counselling be made available to F-111 fuel tank repair workers and their families. That initially, participation in up to five group counselling sessions be made available to all who have access to funded individual counselling. That the Minister review whether further group counselling sessions should be made available, based on outcomes from these group counselling services.
>
> **The Government accepts with modification and enhancement**—The Government accepts the recommendation by providing enhanced access to counselling services, in excess of that recommended by the Inquiry. The Government proposes that VVCS—Veterans and Veterans Families Counselling Service develops and delivers a flexible program of groups and individual counselling to meet the clinical needs of individuals including partners.[170]

4.20 The services provided by VVCS include individual counselling, after-hours crisis telephone counselling via Veterans Line, group programs for common mental health issues[171], couples counselling, transition programs, correspondence programs and educational resources.[172] Prior to the 2009 Parliamentary Inquiry, Tier classified F-111 fuel-tank maintenance workers and their families had access to these programs. As a consequence of the government response, VVCS engaged an F-111 project officer to further develop and manage the dedicated F-111 Lifestyle Management Program.

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169 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, June 2009, paragraph 7.46, p. 155.

170 Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 7.

171 Common mental health issues targeted by these group programs include anxiety, depression, sleep and anger.

172 Department of Veterans' Affairs, *What Services Does the VVCS Provide* [Internet], DVA, available from <http://www.dva.gov.au/health_and_wellbeing/health_programs/vvcs/services/Pages/index.aspx> [accessed 11 November 2012].

F-111 Lifestyle Management Program

4.21 The four-day residential lifestyle program, facilitated by VVCS contractors, is available to Tier 1, 2 and 3 recipients and SHOAMP HCS Group 1 participants, accompanied by their partners or an alternative significant care giver. The VVCS stated that they developed the F-111 specific Lifestyle Management Program by discussing perceived needs with the F-111 fuel-tank maintenance workers. The administered budget allocation for the development and facilitation of the F-111 Lifestyle Management Program was $438,000 from 2010–11 to 2013–14. As at 31 December 2012, total administered expenditure was $348 000.[173]

4.22 To encourage attendance at the Lifestyle Management Program, the VVCS conducted three mail-outs to Tier classified personnel, which were distributed by DVA and sent out in February 2011, 2012, and April 2013.[174]

Evaluation of the F-111 Lifestyle Management Program

4.23 VVCS evaluates the Lifestyle Management Program through participant surveys conducted by the course facilitators. Overall, the F-111 programs were highly rated and received an average score of 4.6 out of a possible five points.[175] An analysis of the August 2012 course participants' responses shows that the clients identified that their needs were met, and their personal goals were achieved.

Uptake of other VVCS programs

4.24 Tier classified F-111 fuel-tank maintenance workers are also eligible for general VVCS group programs and counselling services. The group programs address many issues faced by veterans and their families, including: heart health; sleep; stress; depression and communication.[176] A summary of the counselling used by the F-111 fuel-tank maintenance workers is at Table 4.1.

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[173] Department of Veterans' Affairs, 'Fifth Progress Brief on the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Parliamentary Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families', 6 February 2013, p. 4.

[174] Department of Veterans' Affairs, 'Mail out inviting former F-111 workers to attend a lifestyle program', February 2012, Brief B12/0105.

[175] Courses provided at the Lifestyle Management Program include communication, health and nutrition, health issues, coping with change, anger management, stress management, relationships, relaxation, understanding moods, goal setting and a panel discussion.

[176] In total, 42 F-111 fuel tank maintenance workers have attended general VVCS group programs since 2010–11.

Table 4.1

F-111 fuel tank maintenance workers' use of general VVCS programs

Financial year	Clients	Total sessions	Session type	
			Individual	Couples
2010–11	56	364 (average 6.5)	86%	14%
2011–12	53	358 (average 6.8)	91%	9%
2012–13*	30	102 (averaged at 6.3)	93%	7%

Source: ANAO interpretation of VVCS data

*Note: 2012–13 year is correct to 17 January 2013, and has been averaged pro rata for an annual average.

4.25 This data shows that, since May 2010 when the limit of five sessions per person for family members (Group 2) was removed, Tier classified F-111 fuel-tank maintenance workers attended an average of 6.5 individual or couples counselling sessions. At least 56 F-111 fuel-tank maintenance workers and their partners who attended the F-111 Lifestyle Management Program, have also accessed VVCS counselling services.

4.26 The ANAO considers that Recommendation 12 has been implemented.

Respite care services for partners

4.27 The JSC's report stated that the findings of the study, *Psychological Functioning in Partners and Spouses of Deseal/Reseal Personnel* (the Coxon Study) identified that the partners of former F-111 maintenance workers also suffer psychological and physical problems due to problems associated with their partner's work. The Coxon Study identified evidence-based treatments which include access to respite care for the partners of former F-111 workers:

> ... regularly funded respite breaks would be recommended for spouses to enable them to engage in self-care activities to increase their resilience to the psychological distress they face on a daily basis.[177]

4.28 Recommendation 13 proposed that the Australian Government 'give consideration to expanding respite care for partners of seriously ill former F-111 workers who are principal care providers'.[178] The Government accepted

[177] Leonie W. Coxon and Laurence R. Hartley, *Psychological Functioning in Partners and Spouses of Deseal/reseal Personnel*, Murdoch University, Western Australia, October 2006, pp. 12–13.

[178] Joint Standing Committee on Foreign Affairs Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, pp. 155–165.

Recommendation 13, stating that 'DVA will consider options for additional respite services for deseal/reseal partners'.[179]

4.29 DVA consulted with members of the Deseal/Reseal Support Group and other ESOs at consultation meetings and provided three opportunities for these stakeholders to meet the Minister and DVA Secretary. DVA also liaised directly with an individual who raised their concerns with the JSC inquiry.[180] [181] This approach of direct engagement with groups and individuals who had raised concerns with the JSC demonstrates better practice in the area of stakeholder engagement.

4.30 To more effectively promote the respite care options available to former deseal/reseal workers, DVA published material on its F-111 Fuel Tank Maintenance Website which explained the respite care options and services available under the SRCA, VEA and the SHOAMP HCS. The ANAO found the website to be comprehensive. However, it was not easy to find information about the respite care which is available under the SHOAMP HCS, and DVA has recently improved the website to make this clearer.

4.31 In February 2013, DVA confirmed that only one person is accessing respite care provisions under the SHOAMP HCS. DVA also identified that because the average age profile of F-111 workers is currently between 40 and 50, the uptake of respite services is expected to remain low in the short-term and will most likely increase in the longer-term. Based on the low number of people accessing respite, DVA also forecasts that the quantum of funds expended in this area is expected to remain low.[182]

4.32 DVA has recommended to the Minister for Veterans' Affairs that the expansion of respite care is not considered necessary; and the department will provide further information to the public on how to access respite care. On 21 January 2011 the Minister agreed to the recommendations.

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[179] Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 8.

[180] DVA reported that this consultation helped to clarify its understanding of the person's concerns and that they were predominately related to perceived problems of a lack of access to information about the level of respite care available to carers of former F-111 fuel tank maintenance workers, rather than a lack of available services.

[181] Department of Veterans' Affairs, 'Information Brief: Minister for Veterans' Affairs—F-111 Deseal/Reseal Workers Access to Respite Services', Attachment A, Brief No. B11/0003.

[182] ibid., pp. 3–4.

4.33 In summary, while Recommendation 13 has been implemented, there is scope for DVA to clarify on the F-111 website that carers of seriously ill personnel can receive respite care services under the SHOAMP HCS while a compensation/health care claim is under consideration. In February 2013, DVA advised the ANAO that it would update the F-111 website to clarify the availability of respite care services through the SHOAMP Health Care Scheme and has recently done so.

Member support services, complaints and stakeholder feedback

The RAAF Member Support Coordination Office

4.34 The role of the RAAF Member Support Coordination Office (MSCO) is to assist serving and ex-serving members of the RAAF who request assistance with preparing, submitting and progressing military compensation claims to DVA. This includes assisting them with applications for F-111 Tier classification.

4.35 The MSCO arose from the RAAF response to the BOI. In September 2001, the then Chief of Air Force responded to a BOI recommendation and appointed a Warrant Officer to the role of Chief of Air Force Advocate. The Advocate's role was to support the affected members of the F-111 aircraft deseal/reseal programs. Over time, this role has developed into the MSCO—which is not an advocacy service.

4.36 The ANAO interviewed a member of the MSCO who has occupied the position since 2002. They reported that since May 2010, the MSCO has assisted approximately 40 ex fuel tank workers. They reported an effective collaborative relationship with the DVA dedicated team, whom they described as helpful.

DVA's Complaints and Feedback Management System

4.37 DVA has a national system to support the monitoring and review of its service delivery performance via the Complaints and Feedback Management System (CFMS). Under the CFMS, all staff in DVA are responsible for accepting, recording and dealing with complaints, compliments, or

suggestions for improvement received by the department.[183] In May 2012, the ANAO released a report on the *Management of Complaints and Other Feedback by the Department of Veterans' Affairs*, which recommended that 'DVA implement arrangements to assess the level of under-recording of complaints and other feedback'.[184]

4.38 The ANAO sought information from DVA about the number and nature of complaints recorded by DVA since May 2010 which related to F-111 Tier processing and compensation claims. DVA was not able to provide that information and stated that the branch responsible for F-111 Tier and compensation processing had tended not to use the CFMS because in keeping with the dynamic nature of the implementation task, and DVA's intention to provide open, dedicated and responsive client service to this group, most of the formal written complaints about F-111 Tier processing or compensation were treated as Ministerial, Secretary, or Commonwealth Ombudsman correspondence and were recorded on the DVA documents system.

4.39 DVA supplied the ANAO with a list of the completed Ministerial, Secretary-level, and Ombudsman correspondence. Due to the sensitivity of the F-111 fuel tank maintenance matters and to ensure a consistent approach, a dedicated member of the F-111 branch prepared responses to the written complaints. The Ministerial and Secretary-level correspondence was signed off at the Division Head level. As the department has not utilised its complaints management system during the delivery of the F-111 package of support, the necessary information was not available for the ANAO to determine whether all complaints were recorded and responded to.

Complaints received by the Commonwealth Ombudsman

4.40 Between August 2005 when the F-111 deseal/reseal ex gratia scheme was introduced and December 2012, the Commonwealth Ombudsman had received 107 complaints about the F-111 deseal/reseal ex gratia scheme. Between October 2005 and May 2007, the Ombudsman dealt with 75 complaints about the first F-111 ex gratia scheme and during the same period, DVA had determined over 1000 claims.[185] From June 2010 until

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[183] Department of Veterans' Affairs, *Complaints, Compliments and Feedback,* [Internet], DVA, available from <http://www.dva.gov.au/contact_us/Pages/feedback.aspx#policy> [accessed 20 December 2012].

[184] ANAO Audit Report No. 32 2011–12, *Management of Complaints and Other Feedback by the Department of Veterans' Affairs*.

[185] Commonwealth Ombudsman, Letter to the Department of Veterans' Affairs, 'Observations of the administration of the F-111 deseal/reseal ex gratia scheme', 21 May 2007, p. 3.

December 2012, since the government response to the JSC report, the Ombudsman has received 17 complaints about the revised F-111 ex gratia scheme: with 12 in 2010, five in 2011 and none in 2012.

Stakeholder feedback

4.41 The ANAO contacted stakeholder groups which had a history of involvement and advocacy in support of F-111 fuel tank workers and interviewed senior members of the: Deseal/Reseal Support Group, Queensland Branch of the RSL, and the RAAF Association.

4.42 The Deseal/Reseal Support Group stated that the DVA F-111 Tier and claims processing team (including the RAAF Technical Team) was a service which was unique in DVA in that all Tier and claims processing was done by a dedicated team in one location. In their opinion, this has resulted in very good service, and a team which was knowledgeable about its area of responsibility and related well with the Support Group. The Support Group considered that the RAAF Technical Team was performing effectively and that the DVA compensation sub team in particular was effective in supporting claimants. The Support Group had not received complaints about DVA's Tier processing or compensation performance.

4.43 Similarly, since May 2010, the Queensland Branch of the RSL and the RAAF Association have not received complaints from their members about the implementation of the government response.

Defence litigation briefings

4.44 The JSC's report on F-111 fuel tank maintenance examined the issue of litigation brought against the Commonwealth by former F-111 fuel tank maintenance workers and their spouses and made the following recommendation:

> **JSC Recommendation 14**—That Defence provide a briefing on the progress of litigation to the Committee in March and September of each year.
>
> **The Government accepts the recommendation**—Defence can provide a briefing on the progress of common law litigation of personal injury claims to the Committee in March, September and otherwise required by the Committee.

4.45 ADF personnel gained the right to sue the Commonwealth for personal injury in 1982.[186] Defence Legal has advised that the number of common law cases will taper off due to the statute of limitations on personal injury claims. The 'personal injuries' that are being claimed arose in Queensland and the *Limitation of Actions Act 1974* [Queensland] states that a claimant has a maximum of three years to sue after reasonable enquiry would have allowed them to discover the material facts against which they claim.[187] This limit can be extended however, if a court decides that there is good reason to do so.[188]

4.46 Recommendation 14 required that Defence provide a briefing on the progress of litigation to the JSC in March and September each year. Defence submitted briefs to the JSC in February 2011, September 2011, and August 2012. There was no evidence of Defence providing a brief in September 2010 or March 2012. In the August 2012 brief Defence advised the JSC that it regretted not providing the March 2012 brief.[189] No reason was provided regarding either of the missing briefs.

4.47 Each of the submitted briefings contained details of the progress of common law litigation including: category of claimant (RAAF/contractor/spouse); the total cases settled; and brief detail explaining why certain cases have not been settled. Defence Legal advised that were no additional briefs requested by the JSC.

4.48 Defence's mediation of personal injury claims commenced in November 2008 and continued through to October 2011.[190] At January 2013, only one claim remains unresolved after two unsuccessful mediations. As advised by Defence Legal in the August 2012 update to the JSC, the status of this final case is 'unlikely to change in the short term as negotiations are currently on hold while the plaintiff's lawyers await Counsel's legal advice on

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186 *Groves v Commonwealth* (1982) HCS 21; (1982) 150 CLR 11C (4 May 1982).

187 Office of the Queensland Parliamentary Counsel, *Limitation of Actions Act 1974* [Queensland] (reprint No. 2E), 1 July 2011, section 11:2.

188 ibid., Sections 30 and 31.

189 Department of Defence, Correspondence to the JSC, 'Inquiry into RAAF F-111 Deseal-Reseal workers and their families, Defence Legal update on Recommendation 14', 21 August 2012, p. 1.

190 Typically, the Australian Government Solicitor (AGS) represents the Australian Government as a legal advisor. In 2007, Defence took a new approach and employed Clayton Utz and DLA Piper as additional legal advisors, in the hope of speeding up the mediation process of outstanding claims. The cases were divided evenly between the AGS and the law firms to progress the matters through to settlement by engaging with the plaintiffs' lawyers and arranging mediation for each claim. Email correspondence with Defence Legal, 26 September 2012 and also 4 March 2013.

the claim'.[191] In total, 34 common law claims for personal injuries have been managed through Defence Legal (see Table 4.2).

Table 4.2

Overall status of common law personal injury claims

Overall status of claims	Number of claims
Settled by Defence through mediation	23
Resolved by Workcover Queensland	4
Discontinued	3
Still under negotiation	1
Statute barred and unlikely to be pursued	1
May not be pursued	1
Taken to be abandoned as plaintiff is deceased	1
Total Claims	34

Breakdown of Plaintiffs			
RAAF personnel	Contractors	Spouses of DS/RS workers	Total Claims
27	4	3	34

Source: Defence Legal, Update on Recommendation 14 to the JSC, August 21 2012.

4.49 As at February 2012, Defence Legal estimated the total sum of settlements to former F-111 fuel tank workers to be $10 125 000. However, as one case remains unresolved, final legal costs have not been determined.[192]

4.50 Recommendation 14, that Defence provide the JSC with briefings on the progress of common law litigation claims, is substantially implemented, as Defence did not complete two out of the five anticipated briefings to the JSC, and one of the 34 F-111 common law claims remains unresolved. The recommendation will be fully implemented when the final common law claim is resolved.

Conclusion

4.51 Since the introduction of the F-111 support package DVA has provided a significant range of further support services to former F-111 maintenance

[191] ibid., p. 1.

[192] Department of Defence, 'Brief No. 12: Senate Estimates Brief F-111 deseal/reseal litigation', January 2012.

workers, which have also contributed to the implementation of Recommendations 12, 13, 14 and 16 of the government response.

4.52 DVA has implemented Recommendation 16. It has published and promulgated to its staff a *Protocol for Dealing with Clients at Risk*. DVA has also redeveloped its approach to, and provision of, staff training through its revised Learning and Development Framework. This included developing online training and new training courses on: administrative law, decision-making, handling conversations with clients, and managing mental health issues. These courses were rolled out in 2012 and 2013.

4.53 DVA has developed and delivered a specific F-111 Lifestyle Management Program and improved the utilisation of other VVCS counselling support services. Together they fulfil DVA's commitment to implement Recommendation 12. The specific F-111 Lifestyle Management Program has been well received by course participants.

4.54 Alongside the introduction of the Lifestyle Management Program, DVA also considered expanding respite care for partners of seriously ill former F-111 workers who are principal care providers (Recommendation 13). On advice from DVA, the Minster for Veterans' Affairs decided that the current level of respite care available to partners of former F-111 maintenance workers is adequate. While DVA has taken steps to advise potential clients of the availability of respite care services, it was not easy to find information about respite care available under the SHOAMP HCS. DVA has recently updated the F-111 website to clarify the availability of respite care services under the SHOAMP HCS.

4.55 DVA has sensitively managed the relationship with key stakeholder groups, in particular the Deseal/Reseal Support Group. The key stakeholder groups consulted by the ANAO reported an effective and collaborative relationship with the DVA and RAAF specialist teams, and advised that they have not received complaints from their members about the implementation of the government response. Similarly, the Commonwealth Ombudsman's office advised that, since May 2010 when tier processing recommenced, they have received fewer complaints on F-111 Tier classification; with none in 2012.

4.56 Recommendation 14, that Defence provide the JSC with briefings on the progress of common law litigation claims, is substantially implemented.

5. Implementing the broader Defence recommendations and overall outcomes

This chapter summarises DVA's and Defence's implementation of the 14 recommendations in the government response. Two recommendations tasked to Defence are considered in detail: Recommendation 17, increasing the Australian Defence Force's capability in workplace health and safety, and Recommendation 18, commencing the Jet Fuel Exposure Syndrome Study.

5.1 While DVA and Defence have made significant progress in implementing the majority of the recommendations in the government response related to access to health care and compensation, the JSC report also looked more broadly at reviewing the Australian Defence Force's (ADF) workplace health and safety (WH&S) capability as a means of avoiding a recurrence of the problems faced by the F-111 workers. In 2001, the BOI's report identified a range of structural and cultural issues warranting attention. The JSC highlighted these in its report and recommended that the ADF review its WH&S practices. In addition, the JSC supported a study into jet fuel's impact upon humans, which was subsequently commissioned by the Government.

5.2 The importance of an effective Defence WH&S system is illustrated by a recent Defence WH&S report estimating the cost of the F-111 deseal/reseal incident at $181.2 million, by the end of financial year 2013–14.[193]

Expanding Defence's workplace health and safety capability

5.3 The Joint Standing Committee's (JSC) Recommendation 17 proposed:

- that the Australian Defence Force (ADF) expand its internal capability in occupational medicine as a matter of some urgency[194]; and

[193] Department of Defence, 'Workforce investment proposal for Defence occupational health and safety capability', 2 November 2011, p. 8.

[194] The Defence portfolio consists primarily of three organisations: the Department of Defence (headed by the Secretary of Defence), the Defence Materiel Organisation (headed by its Chief Executive Officer), and the ADF (which consists of the Navy, Army and Air Force, and is headed by the Chief of the Defence Force). These organisations work together and are known as Defence (or the Defence organisation).

- that a review of current practices in handling occupational health and safety (OH&S)[195] matters within the ADF be conducted to amongst other things, respond to the structural and cultural issues identified in the BOI and by Professor Hopkins.[196]

5.4 The Government accepted Recommendation 17 in full and stated that:

- Defence had appointed a Senior Physician in Occupational Health and Safety Medicine;
- Defence is expanding its occupational health and safety capability and has already put in place a program delivering on this requirement, at an estimated cost of $9.96m funded from the Defence budget; and
- the Defence OH&S Strategy 2007-2012 has taken into account lessons learned from previous occupational health and safety issues, including the F-111 deseal/reseal BOI.

Expanding the ADF's capability in occupational medicine

5.5 Recommendation 17 was intended to address the lack of medical specialists in the ADF as identified by the BOI. The JSC's report noted that between the delivery of the BOI report in 2001 and 2009, there was no evidence that the BOI's recommendations regarding the increase of medical specialists in WH&S had been funded or fully implemented.[197]

5.6 Since May 2010, Defence has employed two doctors who are specialists in occupational and environmental medicine, a Senior Physician and a Senior Medical Adviser. The Defence Senior Physician in Occupational and Environmental Medicine provides subject matter expert advice on a wide range of threats to the health and safety of Defence staff. Prior to the government response, the Senior Physician was employed by Defence on contract and performed substantially the same role. However, with the engagement of this professional on a permanent basis, Defence capability has been enhanced as the Senior Physician now has greater access to senior staff and committees to influence and lead Defence in WH&S. The Senior Physician is an invitee to the peak governing body for Defence WH&S matters—the

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[195] The Commonwealth *Work Health and Safety Act 2011* commenced in January 2012, and as a result, the term Workplace Health and Safety (WH&S) has replaced the earlier term, Occupational Health and Safety (OH&S).

[196] Professor Hopkins was a member of the 2001 F-111 Deseal Reseal Board of Inquiry and is an expert in WH&S issues.

[197] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, p. 159.

Defence Work Health and Safety Committee (DWHSC).[198] Defence's capability has also increased with the appointment of a Senior Medical Adviser, a new WH&S specialist position in the ADF's Joint Health Command.

5.7 The Defence WH&S Branch recently estimated a shortfall of one-and-a-half to two-and-a-half occupational medicine positions. In November 2011, Defence received a report—the *Workforce Investment Proposal*[199]—which identified a shortfall of six Occupational Health Practitioners. Occupational Health Practitioners are suitably qualified doctors or nurses who are not responsible for direct, primary health care. The recently appointed Joint Health Command Senior Medical Adviser occupies one of these six positions.[200]

5.8 Defence advised that, as of 25 February 2013, there are seven medical registrars now undertaking specialist occupational medicine training through the Australasian Faculty of Occupational and Environmental Medicine with a view to obtaining a Fellowship.[201] Additionally, in 2011, Defence established a WH&S Services Standing Offer Panel whereby it can purchase the services of occupational medicine specialists in response to specific needs.

Responding to the structural and cultural issues identified in the Board of Inquiry

5.9 Recommendation 17 also requires the ADF to conduct a review of current practices in handling WH&S within the ADF, to respond to the structural and cultural issues identified by the BOI in its 2001 report into F-111 deseal/reseal programs and OH&S.

5.10 The JSC's report summarised those structural and cultural issues as:

- RAAF employing medical staff on contracts which prevented them from thoroughly examining the workers' occupational environment;
- the relative powerlessness of the aircraft maintenance workers, coupled with Defence's attitude to 'get on with the job';

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198 The Defence Work Health and Safety Committee meets quarterly and is co-chaired by the Vice Chief of the Defence Force and The Deputy Secretary, the Defence People Group.

199 Department of Defence, 'Workforce investment proposal for Defence Occupational Health and Safety Capability', 2 November 2011, p. 8.

200 ibid., pp. 43–44.

201 Three of these trainees are full-time Army, two are full-time Air Force and two are Defence Australian Public Service employees.

- the reliance on Personal Protective Equipment (PPE) to protect workers, rather than work redesign to eliminate health and safety risks;
- problems with PPE including lack of availability, inappropriate PPE, and difficulty in using PPE in confined spaces;
- the failure of the chain of command to escalate and address problems, coupled with a 'can-do' attitude; and
- the relative importance placed upon military platforms over the safety of people.[202]

The development of Defence's WH&S capability

5.11 In September 2012, Defence provided the following advice to the ANAO on the status of its implementation of the second part of Recommendation 17, relating to WH&S and cultural issues in the ADF:

> The long term improvements in Defence capability in Occupational & Environmental Health depend on continued funding, resourcing and training. [This was] identified in the Occupational Medicine Occupational Hygiene Project (OMOH Project) and the Defence WH&S Specialist Workforce plan.
>
> The Defence WH&S Strategy 2012-2017 continues the work of previous years, with a focus on transitioning the OMOH Project to Business as Usual so that this health and safety culture becomes embedded into the work environment. There are specific plans and a best practice outcome on which to model this capability with implementation and delivery subject to program budgeting.[203]

5.12 Defence advised that the central, DWHSC-funded OMOH Project was closed at the end of the 2011-12 financial year and the activities developed through the OMOH Project are being transferred to 'Business as Usual' within the various Defence Groups and Services which are responsible for WH&S in their areas.[204]

5.13 Before its closure, the OMOH Project completed some important policy development work, conducted Defence-wide hazard identification assessments, and completed some related Exposure Reduction Plans. Its work

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[202] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, Canberra, June 2009, pp. 20, 86.

[203] Department of Veterans' Affairs, 'Representations to the Australian National Audit Office', September 2012, p. 25.

[204] The overriding principle in Defence is that the responsibility for identification and management of WH&S risks lies with the Business Owner of that plant, (military) platform, or process.

also resulted in the purchase of health and hazard surveillance equipment,[205] identified training needs and staffing gaps, filled some essential WH&S specialist positions in the Defence WH&S Branch, and conducted some initial training.[206] The WH&S Branch was also restructured to improve its capability in providing advice, managing Defence's WH&S strategy and coordination, managing specific WH&S projects, and to implement a Defence-wide audit and compliance-reporting function. Defence advised that the WH&S Branch has developed Senior Leaders' Awareness packages, a Defence Safety Day, and the Defence Safety Awards to promote a safety culture in Defence.

5.14 The Defence WH&S *Workforce Investment Proposal* report, which was intended to 'quantify, cost and justify the existing WH&S workforce and skilling gap in Defence'[207], was delivered in November 2011. The report described a 'very significant capability gap' in Defence WH&S[208], including a significant Defence-wide gap in WH&S specific staffing and training. The DWHSC commissioned the report after identifying in 2009 that Defence was at the lowest level, Level 1, of a five-level Defence Occupational Health and Safety Maturity Model. Level 1 indicates that Defence is 'Reactive' to WH&S matters with varying levels of effectiveness across business areas and inconsistent approaches to, and execution of, WH&S strategies. The DWHSC set a goal for Defence of achieving the Level 3 'Proactive' level by 2017.[209] Achievement of a Proactive level would bring a systematic approach to Defence WH&S, alignment across its business areas, and an emphasis on prevention.

5.15 In order to achieve a Proactive level of WH&S capability across Defence, 'a significant investment in WH&S workforce and skilling is required', including:

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[205] The introduction into service of occupational hygiene monitoring equipment purchased under the OMOH Project is expected to be completed by July 2013.

[206] Department of Defence, 'Occupational Medicine and Occupational Hygiene Capability Project: Project Closure Report', 10 December 2012.

[207] Department of Defence, 'Workforce investment proposal for Defence occupational health and safety capability', 2 November 2011, p. 8.

[208] ibid., p. 48.

[209] The Defence Occupational Health and Safety Maturity Model is a road map for the improvement of Defence's safety performance and was endorsed by the DWHSC in 2009. The model has five levels with 'Reactive' as the lowest level and 'Leading' as the highest level. Defence aims to achieve the Proactive Level—Level 3. Department of Defence, 'Defence Occupational Health and Safety Management System: DOHSMS Maturity Model—Guide for commanders and managers', November 2006.

- skilling of the upstream safety workforce in areas where decisions are made about Defence weapon and platform purchases, so as to design out or reduce hazards;
- a major skill development/training program to up-skill staff across Defence;
- a major increase in specialist WH&S staff positions across Defence (ADF and Australian Public Service), including advisers, auditors, staff trainers and health specialists—a total of 348-371 positions; and
- an estimated total cost of $507.9 million over ten years.[210]

5.16 The report indicated that a conservative estimate of the economic benefit available would be $79.8 million per year, if a Proactive level is achieved. Some of these benefits would be delivered as savings on compensation payments made by DVA. The report envisaged implementation of the improvements over six years with attention to delivering a WH&S management information system, improvements in upstream safety, and changes to workplace culture and practice. The report found that, in WH&S, the RAAF was the most prepared of Defence's Groups and Services and closest to achieving Level 2, the 'Managed level'.[211]

5.17 Defence has advised that, in the current (financial) environment it has not been able to establish and fill the 350-plus positions identified in the Workforce Investment Proposal. In September 2012, under a 'Shared Services' model[212], Defence created 19 additional specialist staff positions in the WH&S Branch to improve the Defence-wide WH&S audit, incident investigation, and advice and support capability. Defence acknowledged that: 'this is a very light touch staffing profile—obviously the more Full Time Equivalent staffing positions provided in this space the more we can do but with resourcing currently tight, this will let us do something'.[213]

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[210] ibid., pp. 8–10.

[211] RAAF Commanders were considered to have reasonable WH&S skills, and the managers, supervisors and workers in both the RAAF and the Defence Science and Technology Organisation also possessed reasonable skills. Department of Defence, 'Workforce investment proposal for Defence occupational health and safety capability', 2 November 2011. pp. 26–37.

[212] A Shared Services model, whereby Defence centrally funds and provides a resource and makes it available to Defence's Groups and Services.

[213] Executive hand-written marginal notes to, Department of Defence, 'Brief for DEPSEC Defence People Group: Options for WHS Shared Service Implementation', 21 September 2012, p. 3.

5.18 The extent of WH&S training required to up-skill Defence is large. The Workforce Investment Proposal estimated that an additional one million-plus hours of training were required across Defence. Defence advised that since 2007 it has developed the WH&S hazards identification short course, and the Monitoring of Occupational Hygiene Hazards Course which has been run on 12 occasions for 114 staff.

5.19 In June 2010, Defence signed a two-year Enforceable Undertaking (EU) with the national WH&S regulator, Comcare, for the management of Defence hazardous chemicals. This EU has been extended until June 2013 to give Defence longer to meet Comcare's compliance requirements. In December 2012, the DWHSC was advised that 'serious delays' had been encountered and 'overall EU completion remains at risk'.[214]

5.20 In response to the EU, Defence has developed and completed additional WH&S training related to the management of hazardous chemicals. These include, for example:

- the conduct through 2010-11 of 325 Hazardous Chemicals Review courses (for 4073 personnel);
- the conduct in 2012 of 193 Hazardous Chemicals Risk Assessment courses (for 2241 personnel);
- since July 2012, the development of three new Hazardous Chemicals awareness and management courses; and
- since August 2012, the completion by over 6000 personnel of the online Hazardous Chemicals Awareness Course.

5.21 The RAAF has also developed a WH&S management system—RAAFSafe. The RAAF advised that RAAFSafe was revised in 2011, and the primary policy framework—the RAAF Safety Manual—was updated to ensure alignment with the new WH&S Act. The most recent audit of RAAFSafe was conducted in 2012, and the audit results indicate that overall the RAAF is at the developmental stage of being 'calculative'.[215] The RAAF has advised that the

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[214] Department of Defence, 'Defence WH&S Strategy 2012–17', Defence Work Health and Safety Committee Minutes, Information Papers 2 & 2a, Implementation Plan, October 2012.

[215] The RAAFSafe system has five effectiveness levels which in order from lowest to highest are: Pathological—'who cares as long as we are not caught'; Reactive—'We take action when there's an accident'; Calculative—'We have systems in place to manage all accidents'; Proactive—'We work on the hazards we find'; Generative—'Safety is how we do business'. Department of Defence, 'Status report summary for the Air Force work health safety management system—RAAFSafe', 28 February 2013.

result was unsurprising as RAAFSafe was developing and improvements are anticipated in the context of the next audit which is due in 2013.

The relative powerlessness of fuel tank workers

5.22 Recommendation 17 of the JSC report was directed at addressing the WH&S structural and cultural issues in Defence as identified by the BOI including 'the relative powerlessness of maintenance workers'.[216] The BOI considered that this was one of the immediate causes of the exposure and injury sustained by F-111 fuel tank maintenance staff, and Recommendations 9.3 and 9.5 of the BOI report were intended to address this issue. In summary, the BOI recommended the reintroduction of Health and Safety Representatives (HSRs) at the level of Corporal or below, empowered at a minimum to speak on WH&S issues, and further, to exercise powers 'equivalent to those inherent in a provisional improvement notice (PIN)'.[217] The PIN concept is a longstanding one in WH&S legislation and at present is provided for in the *Work Health and Safety Act 2011* (WH&S Act). Under s90 of the WH&S Act a HSR may issue a PIN, which:

> … requires the duty holder to whom it is issued to remedy a contravention, prevent a likely contravention from occurring or remedy the things or operations causing the contravention or likely contravention of the WH&S Act [or regulations]. Depending upon the particular contravention, the duty holder may be an individual natural person or an organisation such as a company or public authority.[218]

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[216] Royal Australian Air Force, *Chemical Exposure of Air Force Maintenance Workers*; Report of the Board of Inquiry into F-111 (Fuel Tank) Deseal/Reseal and Spray Seal Programs, Royal Australian Air Force, Canberra, 2001, Volume 1, Chapter 11, Summary of Main Findings.

[217] The BOI's Recommendation 9.3. was that: 'The term health and safety representative (HSR) should be reintroduced (to more accurately reflect the role envisaged here). HSRs should be drawn from the ranks of Corporal or below to ensure that they have close contact with the hazards and with the concerns of the workforce and that their role is not swamped by other management functions. COs [Commanding Officers] should ensure that HSRs have the confidence of the section before appointing them'.

The BOI's Recommendation 9.5. was that: 'A way should be found, consistent with the military command system, to provide HRSs with powers equivalent to those inherent in a provisional improvement notice'.

[218] Comcare, *Provisional Improvement Notice,* [Internet], Comcare, April 2012, available from, https://www.comcare.gov.au/__data/assets/pdf_file/0018/107802/Provisional_improvement_notice_PIN.pdf, [accessed 26 April 2013].

5.23 Defence closed Recommendations 9.3 and 9.5 of the BOI as implemented in September 2009. In doing so, it recorded that in respect to Recommendation 9.5:

> Consistent with the military command system, safety representatives should have the ability and confidence to bring safety issues to the attention of higher command.[219]

5.24 The implementation action recorded by Defence in closing Recommendation 9.5 made no specific reference to the key issue raised by the Board of Inquiry around an ADF HSR having powers equivalent to a PIN. In advice to the ANAO, Defence stated that, whilst the recent Determination on WH&S matters made by the Chief of the Defence Force (CDF) precludes ADF members from being made HSRs with powers equivalent to a PIN[220], 'the collective Safety Network, and the risk management approach that has been [recently] implemented through RAAFSafe, achieves the same outcome as a HSR'.[221] Notwithstanding this advice, it is not evident how the introduction of a legal prohibition on having ADF HSRs, through the CDF's Determination, can be reconciled with the specific approach proposed by the BOI in Recommendation 9.5.

5.25 The BOI had indicated that: 'the declaration that employee empowerment provisions of the [then] Act do not apply to Defence, places on it a special responsibility to provide some alternative system'.[222] As the HSR exemptions have continued under the most recent WH&S Act, this observation continues to have relevance for Defence generally and the RAAF in particular.

5.26 Defence has advised that military members can, however, be appointed as Unit, Command, or Formation Safety Advisers and Coordinators, and while they do not hold the powers that a HSR would under the Act, such as being

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[219] Defence Occupational Health and Safety Committee, 'F-111 Board of Inquiry Recommendations Closure Report', 28 March 2011.

[220] Consistent with the arrangements under the previous WH&S legislation, in December 2012, the Minister for Employment and Workplace Relations approved Defence exemptions from certain aspects of the new WH&S Act, under s 12D(2). These include the sections of the WH&S Act relating to HSRs and their powers (including those related to PINs), and the right to cease or direct the cessation of unsafe work. The exemptions apply to Defence staff members and for Defence both during operations and non-operationally. The Explanatory Statement indicates that 'the powers granted to health and safety representatives, and workers generally, are considered inimical to the discipline of the ADF and the nature of military service'. See the Explanatory Statement: *Work Health and Safety Act 2011* (application to Defence activities and Defence members) Declaration 2012, 17 December 2012.

[221] Department of Defence, 'Minute: Air Force Work Health and Safety Policy and Safety Network' Directorate of Defence Aviation and Air Force Safety, 7 March 2013.

[222] Royal Australian Air Force, *Chemical Exposure of Air Force Maintenance Workers*; Report of the Board of Inquiry into F-111 (Fuel Tank) Deseal/Reseal and Spray Seal Programs, Royal Australian Air Force, Canberra, 2001, Volume 1, Chapter 9, Command and Discipline System.

able to issue a PIN, they are enabled to promote health and safety at work and consult with the chain of command to resolve WHS issues in much the same way as a HSR would. Defence has further advised that ADF members are encouraged to actively participate with HSRs and other safety personnel in working towards a safe workplace, especially in integrated areas which have both military and civilian staff.

5.27 The exemptions from the WH&S Act operating in Defence place an ongoing onus on Defence Command to respond to WH&S incidents, to have good training and skills, and to have access to appropriate advice both centrally through the WH&S Branch, and also locally.

The reliance on personal protective equipment and the 'can-do' culture

5.28 Defence has recognised the importance of delivering solutions to WH&S hazards by designing the hazards out—the 'upstream approach'—which reduces the reliance on 'downstream' use of personal protective equipment. The DWHSC has directed that this is a priority area.

5.29 The two most common injuries for veterans are hearing damage and tinnitus as a result of occupational noise exposure in Defence. They result in one third of all claims under the *Veterans' Entitlements Act 1986*. Some noise problems are inherent to military platforms and materiel. Defence was advised in March 2012 that it was not meeting its requirements under the WH&S Act with regard to noise, and that the estimated cost to DVA of hearing damage over the next ten years was $1 to 1.2 billion. The DWHSC was informed in March 2012 that there is a large gap between the size of the occupational noise problem and the ability of Defence's Groups and Services to remediate the problem. The DWHSC was also advised:

> It is considered that the F-111 'can-do' culture is still prevalent. Use of PPE i.e. hearing protection was variable, in some locations it was provided, but not worn; while in other places, personnel did not know where to find hearing protection. Or again, it was either inappropriate for the level and frequencies of noise, or, personnel were not trained in its usage. In some locations, exposure to noise was considered to be an unavoidable part of the job and as such, the view was that there was nothing much that could be done.[223]

5.30 Defence has commenced activity on a review of contractor safety and an update of the Defence Procurement Policy Manual to ensure consideration

[223] Department of Defence, 'Agenda paper 5.3, Occupational noise exposure reduction', 14 March 2012. pp. 3–8.

of safety in all contracts.[224] However, additional Acquisition Hazard Adviser staff, identified as necessary by the Workforce Investment Proposal, have not been employed.

5.31 In December 2012, the DWHSC was informed that the implementation of the Work Noise Exposure Reduction Project (Phase 1) for Defence's industrial noise problem, which was approved in March 2012 and was to have been extended for a further two years, had been indefinitely postponed. In May 2013 Defence advised the ANAO that, in March 2013, the DWHSC had reallocated resources and funding to prioritise the Noise Project, and it is now going ahead. Defence further advised that contracts were signed on 30 April 2013 and the contractor has commenced work.

Summary

5.32 Movement from a Reactive level to a Proactive level of WH&S capability as planned by Defence depends upon a significant investment in staff training and specialist staff, and upon cultural change. Defence has undertaken significant developmental and preparatory work as part of the Occupational Medicine Occupational Hygiene Project (OMOH Project), and has begun to take some steps under a Shared Services model to deliver a centralised WH&S audit function and strengthen its ability to provide advice to command. However, as Defence WH&S delivery transfers from the central OMOH Project to Business as Usual in Defence Groups and Services, the risk remains that WH&S capability, sufficient to bridge that gap, will not be developed.

5.33 As a consequence of the slow progress in expanding Defence's capability in occupational medicine, despite Defence's (and the RAAF's) concerted effort in the development of WH&S policy and training, and the significant gap in Defence's WH&S capability, the ANAO considers that Recommendation 17 relating to Defence's WH&S capability has been partially implemented.

[224] Department of Defence, *Defence Annual Report 2011–12*, Appendix 5, p. 280.

The Jet Fuel Exposure Syndrome Study

5.34 In 2004, the Chief of the Air Force commissioned Professor Frank Bowling, of the Mater Medical Research Institute, to study the possible effects of deseal/reseal work on the mitochondria of exposed personnel. Professor Bowling's research came to the conclusion that aviation turbine fuel may be harmful to humans in certain situations. The JSC found these results 'sufficiently worrying' and concluded that further research was needed, and this formed the basis for Recommendation 18 of the JSC report:

> **JSC Recommendation 18**—That the ADF fund further research into the mitochondrial changes identified in Professor Bowling's research. That as part of that research, further wider study be undertaken into the health implications of working with aviation turbine fuels and the results of these studies be reported back to the Committee at least annually. [225]
>
> **The Government accepts the recommendation**—Defence continues to support further research into mitochondrial changes in fuel and solvent exposed personnel, and Defence is also undertaking work to assess the health implications of working with aviation turbine fuels.[226]

5.35 Defence has funded further research by Professor Bowling to study the health implications of working with aviation turbine fuels. Defence and DVA have provided joint ministerial submissions to Minister Snowdon on four occasions since the commencement of the Jet Fuel Exposure Syndrome Study.

Conclusion: implementation and reporting of the government response

5.36 As required by the government response to Recommendation 11 of the JSC report, DVA has completed five reports for the Minister for Veterans' Affairs, with the latest report provided in February 2013.[227] DVA advised that it has implemented all 10 recommendations for which it had responsibility and one recommendation for which it has joint responsibility with Defence. DVA also reported that Defence had implemented one of the three

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[225] Joint Standing Committee on Foreign Affairs, Defence and Trade, *Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, June 2009, p. 156.

[226] Australian Government, *Government Response to the Joint Standing Committee on Foreign Affairs Defence and Trade Report: Sealing a Just Outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal Workers and their Families*, 13 May 2010, p. 9.

[227] Department of Veterans' Affairs, 'Fifth Progress Brief on the Implementation of the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade Parliamentary Inquiry into RAAF Deseal/Reseal Workers and their Families', Brief No. B13/055.

recommendations for which Defence was responsible, and that Recommendation 17 and Recommendation 18 were 'well in train'.[228]

Implementation

5.37 The ANAO's audit of the progress in implementing the Australian Government response to the JSC recommendations indicates that[229]:

- of the 10 DVA recommendations, nine have been implemented and one has been substantially implemented;
- the joint DVA/Defence recommendation (the establishment of a dedicated F-111 information website) has been implemented; and
- Defence has substantially implemented Recommendation 14 relating to litigation, Recommendation 18 on the Jet Fuel Exposure Syndrome Study is proceeding, and Recommendation 17 on expanding Defence's capability in Workplace Health & Safety (WH&S) is partially implemented.

5.38 Table 5.1 and Table 5.2 summarise the ANAO's assessment of the status of DVA's and Defence's implementation of the recommendations from the government response, as at May 2013.

[228] Ibid., p 1.

[229] The ANAO used the criteria of implemented, substantially implemented, partially implemented, or not implemented to assess the progress in implementation.

Table 5.1

DVA's implementation of the government response

Recommendation	Accepted Recommendation	Government response	ANAO's assessment at May 2013
JSC Rec. 1	Expanding the definition of eligible personnel for the purposes of Tier three of the ex gratia scheme	Accepted with modification	Implemented
JSC Rec. 2	Accepting statutory declarations as evidence of qualifying service	Accepted with modification	Implemented
JSC Rec. 7	Reviewing cases in which a statutory declaration had been rejected by DVA in determining an F-111 ex gratia application	Accepted	Implemented
JSC Rec. 8	Access to SHOAMP HCS and ss 7(2) SRCA provisions be provided to personnel covered under the extended Tier three definition	Accepted with modification	Implemented
JSC Rec. 9	Removing the 20 September 2005 cut-off date for the SHOAMP HCS	Accepted	Implemented
JSC Rec. 10	Allowing the previously excluded estates, of those who died before 8 September 2001, to access the ex gratia scheme	Accepted	Implemented
JSC Rec. 11	DVA to task a senior person with suitable qualifications and background knowledge of the F-111 worker claims to oversee the implementation of the JSC recommendations and provide expert assistance to the DVA in processing claims	Partially accepted	Substantially implemented
JSC Rec. 12	Providing enhanced access to counselling services for F-111 fuel tank repair workers and their families	Accepted with modification	Implemented
JSC Rec. 13	DVA will consider options for additional respite care services for Deseal/Reseal partners	Accepted	Implemented
JSC Rec. 16	That a review of DVA staff training be undertaken to ensure a regular high standard of client focused delivery of services occurs. That policies for handling cases of seriously ill patients, especially those in vulnerable circumstances, be reviewed	Accepted	Implemented

Source: ANAO analysis.

Note: The Tables list the Recommendation as modified by and accepted in the government response.

Table 5.2

Defence's implementation of the government response

Recommendation	Accepted Recommendation	Government response	ANAO's assessment at May 2013
JSC Rec. 14	Defence provide a briefing on the progress of litigation to the JSC in March and September of each year	Accepted	Substantially Implemented
JSC Rec. 15 (Defence and DVA)	Establishing a dedicated website in relation to F-111 aircraft maintenance	Accepted	Implemented
JSC Rec. 17	The ADF expand its internal capability in occupational medicine as a matter of some urgency. That a review of current practices in handling OH&S matters within the ADF be conducted to amongst other things, respond to the structural and cultural issues identified in the BOI and by Professor Hopkins	Accepted	Partially implemented
JSC Rec. 18	That the ADF fund further research into the mitochondrial changes identified in Professor Bowling's research. That as part of that research, further wider study be undertaken into the health implications of working with aviation turbine fuels and the results of these studies be reported back to the JSC at least annually	Accepted	Implementation is proceeding[1]

Source: ANAO analysis.

Note: (1) Treated as implemented.

Reporting and evaluation activity

5.39 DVA and Defence are about to enter the fourth year of their implementation of the $57 million package of support, which has raised a number of implementation challenges for DVA. These challenges included:

- the department's ability to reach the target client group;
- the need to work cooperatively with Defence;
- the need to work sensitively with stakeholder groups and manage their expectations; and
- DVA's decision to deploy dedicated F-111 teams supported by a specialist team provided by the RAAF.

5.40 While DVA has completed an internal audit on aspects of implementation of the support package[230], DVA agreed in the course of the audit that there would also be merit in conducting a post implementation review in cooperation with Defence. Completing a review of the package's delivery to date would provide DVA with an opportunity to understand the components of the package and implementation approach that have worked well and those aspects where there was scope for improvement.

Ian McPhee — Canberra ACT

Auditor-General — 18 June 2013

[230] In February 2011, DVA completed an internal audit which examined the introduction of the F-111 support package to implement the 11 recommendations for DVA.

Appendices

Appendix 1: Agencies' Responses

Australian Government
The Repatriation Commission

PRESIDENT TELEPHONE (02) 6289 6736
DEPUTY PRESIDENT TELEPHONE (02) 6289 6744
COMMISSIONER TELEPHONE (02) 6289 6733

FACSIMILE (02) 6289 6257

Dr Tom Ioannou
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Dr Ioannou,

Thank you for your letter of 30 April 2013 addressed to the Secretary, Department of Veterans' Affairs (DVA) and the enclosed proposed audit report, *Compensating F-111 Fuel Tank Workers*. DVA would like to thank the Australian National Audit Office (ANAO) and its officers for the high level of professionalism and cooperation shown during the audit process.

This audit was timely, given that it has been two years since the Government Response to the Joint Standing Committee on Foreign Affairs, Defence and Trade Report, *Sealing a just outcome: Report from the Inquiry into RAAF F-111 Deseal/Reseal workers and their families*.

DVA appreciates the ANAO's recognition that, overall, the implementation of the F-111 support package has been administered effectively. DVA is committed to providing a quality service to F-111 fuel tank maintenance workers and their families and welcomes the ANAO's review of its services to this cohort. The determination of the tier definitions is complex and poses numerous challenges and this is clearly illustrated in the report. DVA and the Royal Australian Air Force (RAAF) have endeavoured to interpret these definitions in the most inclusive manner and within the spirit of the original intent of the definitions, whilst acknowledging that improvements to the administrative processes can still be made.

DVA has carefully considered ANAO's suggested improvements and has already implemented some of these suggestions. This includes amending the Tier Classification File checklist to clarify that statutory declarations are considered tertiary evidence, addressing some of the errors identified by ANAO in the tier case files it reviewed and improving the ease of finding respite information on the F-111 website. Additionally, the DVA Tier Delegate and RAAF Technical Advice Team have attended training on *Legal and Administrative Frameworks for Decision-Making*. Furthermore, while DVA has always enabled tier applicants to request a reconsideration of the tier decision upon request, the tier letter has been clarified to inform applicants that a reconsideration can be requested with or without the provision of additional evidence.

Other improvements suggested by the ANAO will be addressed in the coming months. Specifically, DVA will amend the Program Guidelines to clarify relevant processes and documentation. DVA also sees the benefit in conducting a post-implementation review in cooperation with Defence. These measures will help DVA ensure it continues to meet best practice procedures in the administration of the F-111 programs.

As discussed in the audit report, DVA has also agreed to re-examine some past tier decisions which involved the interpretation of 'usual place of duty' or where significant inferences were drawn from the material available. DVA will examine these decisions in consultation with the RAAF to ensure adequacy of reasons and, if necessary, remake the tier decision if the evidence supports a change in decision.

The proposed audit report discusses DVA's Learning and Development Framework. This framework encompasses a wide range of topics which are directly relevant to DVA's business and relationship with clients. Training courses include *Legal and Administrative Framework for Decision-Making, Caseload Management* and *Quality Decision Training.* These courses were rolled out in March 2013. Additionally, *Managing Sensitive Conversations with People Reporting Sexual Abuse* was rolled out in July 2011. The courses have all been well attended and further refresher courses are due to run in the 2013-14 financial year. Additionally, DVA has a range of online mental health awareness training modules for staff, including *Managing Challenging Behaviours, Suicide Awareness* and *Building Resilience*, which were rolled out in February 2012.

DVA has recently trialed a new client service program *It's Why We're Here*. This program is part of DVA's Cultural Change program and aims to improve staff understanding of DVA's diverse client group, particularly its contemporary clients; help build client-focused relationships between DVA staff and its clients and enhance DVA's client service culture and delivery. Feedback from the trial has been overwhelmingly positive and it will now be incorporated into DVA's training package suite.

With respect to the recommendation within the proposed report, DVA has the following comment:

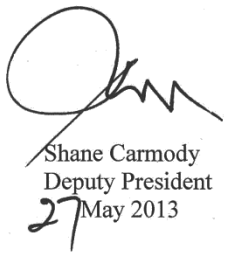
Recommendation No. 1:
The ANAO recommends that DVA seek advice from the Military Rehabilitation and Compensation Commission in order to obtain a more precise meaning of the terms: 'usual place of duty' and 'direct support', which are employed in the Tier definitions for Categories 7 and 8, and are used to determine the eligibility for support for people who worked in the hangars where F-111 fuel tank maintenance was performed.

DVA Response:
Agreed. DVA agrees to seek advice from the Military Rehabilitation and Compensation Commission with respect to the terms 'usual place of duty' and 'direct support'. DVA acknowledges that these terms are imprecise and further clarification would assist with the interpretation of the tier categories 7 and 8. DVA will work with the RAAF to clarify these terms.

As requested, please find attached a summary of DVA's formal response for inclusion in the report (Attachment A) and additional editorial commentary on the report text for your consideration (Attachment B).

Thank you for the opportunity to comment on the audit. Please contact Carolyn Spiers, Chief Audit Executive, on 02 6289 6003 if you require any further information.

Yours sincerely,



Shane Carmody
Deputy President
27 May 2013

Encl:
Attachment A: Summary of DVA's formal response to the Proposed Audit Report
Attachment B: Editorial comments

Attachment A

Summary of DVA's Formal Response to the Proposed Audit Report

DVA agrees with the recommendation made in the ANAO report, acknowledging that clarification of the terms 'usual place of duty' and 'direct support' would assist with the interpretation of some of the Tier categories. DVA will work with the Royal Australian Air Force to further clarify these terms for the Military Rehabilitation and Compensation Commission's consideration.

DVA appreciates the ANAO's recognition that, overall, the implementation of the F-111 support package has been administered effectively. DVA is committed to providing a quality service for F-111 fuel tank maintenance workers and their families and welcomes the ANAO's review of its services to this cohort. Several of the ANAO's suggested improvements have already been made, with other suggested improvements in progress. These will help ensure that DVA continues to meet best practice procedures in the administration of the F-111 programs.

Australian Government
Department of Defence

Mr Dennis Richardson
Secretary

General David Hurley, AC, DSC
Chief of the Defence Force

SEC/OUT/2013/133
CDF/OUT/2013/661

Mr Ian McPhee PSM
Auditor-General for Australia
Australian National Audit Office
GPO Box 707
Canberra ACT 2600

Dear Mr McPhee

Australian National Audit Office (ANAO) Performance Audit on *Compensating F-111 Fuel Tank Workers* – Section 19 (Draft) Report

Thank you for the opportunity to comment on the Section 19 (Draft) Audit Report on *Compensating F-111 Fuel Tank Workers*. Defence's comments are contained at **Enclosures 1 and 2**.

Defence welcomes the report and appreciates the value of the audit process. Defence is pleased to advise that improvements in the claims assessment process have already been implemented, since the audit fieldwork was conducted.

We note that there are no Recommendations for Defence, and welcome observations on progress in increasing Defence's Work Health and Safety capability.

Should you have any queries, please do not hesitate to contact Mr Geoffrey Brown, Chief Audit Executive, on 02 6266 4210, or Ms Dianne Leak, Assistant Secretary Audit, on 02 6266 4204.

Yours sincerely

Dennis Richardson
Secretary

28 MAY 2013

D.J. HURLEY, AC, DSC
General
Chief of the Defence Force

28 MAY 2013

PO Box 7900 Canberra BC ACT 2610 Telephone 02 626 52851 - Facsimile 02 6265 2375

DEFENCE'S AGENCY RESPONSE

ANAO Performance Audit of *Compensating F-111 Fuel Tank Workers* (Section 19 Report)

Defence acknowledges the findings contained in the audit report on *Compensating F-111 Fuel Tank Workers*, and notes there are no Recommendations for Defence. Defence appreciates the value of the audit process and continually seeks opportunities for improvement.

Defence welcomes the ANAO's observations on its progress in increasing Defence's Work Health and Safety capability, and particularly in regards to Occupational Medicine and Occupational Hygiene. Defence has learned from the F-111 Deseal/Reseal experience and is continually building its safety culture; and, through leadership and individual commitment, Defence aims to ensure no person will suffer a serious preventable work related injury or illness.

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