

CHAPTER 8

BROADER POLICY OPTIONS RELATING TO THE AWARD OF MEDALS

8.1 The Terms of Reference authorised the Working Party to consider and report on “the wider implications of suggested changes to current policy”. In the course of our Review, some issues for further policy consideration have become apparent.

Medals eligibility and veterans’ entitlements

8.2 The Working Party found that there was a degree of confusion among veterans about the relationship between conditions of eligibility for medals and for veterans’ entitlements. This confusion is documented in Chapter 6, where the Working Party notes (based on legal advice from Professor Creyke in Appendix 7) that there is no basis for a claim for the Australian Active Service Medal (AASM) in the fact that the service is accepted for full veterans’ entitlements. (Similarly, there is no basis for claim in the fact that a period is treated as ‘active service’ for disciplinary purposes.)

8.3 While this position is technically correct, we are aware that it has the potential to confuse a reasonable member of the community. On the one hand, they would see that the Commonwealth has accepted the service up to 19 April 1956 as qualifying service for full veterans’ entitlements—in other words, as equivalent to the most hazardous combat service that could be experienced in a state of open war between armed adversaries. On the other hand, they would see that the same service is not accepted for the kind of medal that is awarded for combat service in war.

8.4 In relation to post-Armistice Korea, a similar policy disjoint is apparent between the concept of ‘active service’ and the medal conditions. This has been exacerbated by the reasonable community perception of the plain English meaning of ‘active service’, as noted in Chapter 6.

8.5 This is not a new problem. As the Toose Report noted:

“During the course of the Enquiry evidence was presented, and submissions made, which indicated a degree of misunderstanding and dissatisfaction concerning the meaning of certain provisions of Repatriation legislation, the terminology used, public relations and associated matters.”¹

8.6 Since the mid-1990s, a more coherent interdepartmental policy approach to conditions of service has been implemented for overseas ADF deployments. This approach is based on the current concepts of ‘warlike’ and ‘non-warlike’ service. ‘Warlike service’ is ‘qualifying service’ for the VEA and attracts award of the AASM. ‘Non-warlike service’ is ‘operational service’ for the VEA and attracts award of the Australian Service Medal (ASM). The risk of the kind of damaging confusion that has complicated the appropriate recognition of post-Armistice Korean service has diminished. ‘Active service’ is no longer used—except (perhaps unfortunately) in the titles of the AASM and Returned from Active Service Badge (RASB) themselves. For the future, the outcome of the present Nature of Service Review is likely to identify

¹ Toose p.619.

the several conditions of service entitlements associated with particular deployments, which will include eligibility for medals and veterans' entitlements (among other things).

8.7 Nevertheless, we see a need for closer alignment of the policy approach taken by the several agencies involved in conferring operational entitlements on current and former members of the ADF—in particular the Departments of Defence and Veterans' Affairs.

Recommendation:

8A. The Department of Defence and the Department of Veterans' Affairs should work closely together to raise public awareness of the clear distinction between medals eligibility and veterans' entitlements. This could be achieved in plain English information to explain the workings of the conditions of service package and the relationship between elements of the package, to include veterans' entitlements and medals.

A more transparent and accountable medals process

8.8 It also became apparent in the course of the Review that there is widespread misunderstanding of how the medals processes work.

8.9 One veterans' association wrote:

"We have pointed out in our submission the complexity of post-World War II campaign and service awards, as well as what we believe as some *ad hoc* decision 'on the fly' by successive Ministers within the Defence portfolio... we believe the granting of post-World War II campaign awards has been extremely disjointed and *ad hoc* in the extreme... We do think that the Chief of Defence Staff should declare a positive process of any new awards and seeks the input of both Service personnel and ex-service organizations."

8.10 Another association submitted:

"Dates applicable to the Korean War appear to be in disarray... The Department of Veterans' Affairs should set down a policy on the contradictory dates being used and such a statement of policy is needed urgently."

8.11 The President of a local veterans' association wrote:

"Have done a quick ring around and the main contentions appear to be the anomalies imbedded in the Repat system..."

8.12 Another submitted:

"The issue of war medals to Australian servicemen has been a contentious issue for years. We have had to go to the government with cap in hand... The issue of the Australian Service Medal leaves a lot to be desired."

8.13 Many veterans wished the Working Party well in its endeavours and recognised the difficulties inherent in developing fair and equitable proposals. One wrote:

“... this letter is simply an observation on a problem the Committee must face and resolve. However, it is also written to show that the complexities of their problems are recognised by at least one interested ex ADF member.”

8.14 ‘Complexity’ and ‘anomaly’ are two of the words we have encountered most in the course of this Review. Given the high degree of interest that ADF members, both past and present, take in their medal entitlements, there is a case for reducing the complexity and increasing the transparency of the Australian Honours and Awards System, and increasing the effort devoted to prior consultation and explaining the System to its clients—many of whom are not able to cope easily with technical explanations.

8.15 To some extent, the problems to date have arisen from anomalies caused by retrospective application of new medals to old campaigns. Anything that can be done to resolve issues from the past would free up the System to cope better with emerging issues. The Working Party is aware that policies on the recognition of operational service—like operational service itself—are never static. New policy approaches are being developed for new national strategies: the War on Terror and the issue of recognising ADF service within Australia and its surrounding seas are just two current examples. For example, the Defence Nature of Service Review could well have implications for medal recognition of operational service in the decades to come.

8.16 Medal entitlements, including for post-Armistice service in Korea, have generated extraordinary amounts of Ministerial correspondence, involving the Defence Directorate of Honours and Awards in spending considerable time, energy and resources on these matters. Any steps which could reduce the incidence of misunderstandings and queries would benefit all participants in the process.

8.17 An issue appears to be that the institution of medals is authorised by executive action, is not subject to external review, and is not well publicised. The conditions of award are authorised by medal ‘regulations’, but these regulations are not subject to external oversight. One veteran included in a submission to the Working Party a comment about the replacement of:

“... the Imperial Honours and Awards System with one which is not transparent, the results of which are not widely promulgated, the results of which are not tabled before, nor debated in Parliament, which are not judiciable and which cannot be referred to the Commonwealth Ombudsman...”

8.18 While there would be clear risks entailed in thus politicising the process, the Working Party sees merit in examining and applying the principles underlying the treatment of contemporary Commonwealth rule-making to the medals context—for example consultation, accountability, and easy public access to the rules. The rules established by these processes should include rights of review of adverse decisions on individual cases.

8.19 The Working Party readily recognises that wherever the line is drawn, someone will be on the wrong side of it and will want special treatment. This is an age-old problem in all fields of public administration. Priority should be given to addressing remaining anomalies in the Australian Honours and Awards System.

Once this has been done, the rules should be widely publicised in plain terms, and should be applied fairly but firmly.

8.20 The Working Party has considered the case for structural change in the organisational arrangements currently in place for developing and applying policy on military honours and awards. This is a complex and sensitive issue. On the one hand, it appears anomalous that Defence (with its mission to “defend Australia and its national interests”) is dealing with medal issues for veterans and their surviving dependants back to the First World War. On the other hand, the Working Party is conscious of how important appropriate medal recognition is to the morale of currently serving ADF members. We also appreciate that the ADF chain of command must have a close involvement in military honours and awards.

8.21 The Working Party has formed the view that there should be an independent part-time military honours tribunal to advise the Minister on the more complex aspects of military medals policy. Such a body would have a role in representing the views of relevant areas of the executive arm of government, as well as veterans themselves. It could comprise a senior representative from each of:

- ADF Headquarters
- Department of Prime Minister and Cabinet
- Department of Veterans’ Affairs
- Department of Foreign Affairs and Trade
- Honours Secretariat
- The ex-Service community (but not representing any particular group).

8.22 The tribunal would:

- a. overcome veterans’ current sense of exclusion from the decision-making process;
- b. protect the important national institution of military honours from instability, undue political pressure and short-term decision-making;
- c. be able to recommend ways of making the process more transparent;
- d. provide a forum for independent advice to the Minister on any difficult remaining anomalies from past campaigns, on the institution of new medals, and on any major changes in the military honours system;
- e. avoid the need for further external reviews of specific medal issues; and
- f. require an adequately resourced and accommodated secretariat provided by the Department of Defence.

8.23 The Defence Directorate of Honours and Awards would continue to administer military medal entitlements.

Recommendations:

- 8B. The Department of Defence should examine options for modifying the medal system's rule-making and making it more transparent and reviewable for the future. In this process it should produce more plain English material to explain it.
- 8C. An independent part-time military honours tribunal should be established.

