



Australian Government

Defence Force Retirement &
Death Benefits Scheme

The DFRDB Authority

annual report 2004-05



Defence Force Retirement and Death Benefits Scheme

dfbdb

dfbdb authority
annual report
2004–2005

the defence force retirement and death benefits authority |

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Note: All contribution, benefit, membership and exit statistics are derived solely from records available to the Commissioner for Superannuation as they stood at the time these statistics were compiled. Where statistics for earlier financial years are quoted, these may vary from those previously published due to the application of retrospective adjustments. For similar reasons statistical information in this report may also vary from that presented by other agencies.

Pension references: The DFRDB and DFRB Acts refer to ongoing benefits by various names, including retirement pay and pension. For convenience, and to standardise the terminology used in the annual reports produced by ComSuper, the term 'pension' is used throughout this report.



The Hon. De-Anne Kelly, MP
Minister Assisting the Minister for Defence
Parliament House
Canberra ACT 2600

Dear Minister

In accordance with subsection 16(1) of the *Defence Force Retirement and Death Benefits Act 1973* (the DFRDB Act), the Defence Force Retirement and Death Benefits Authority is pleased to submit to you its annual report. The report deals with the administration of the *Defence Force Retirement and Death Benefits Act 1973* and the *Defence Forces Retirement Benefits Act 1948* for the year ended 30 June 2005.

Subsection 16(2) of the DFRDB Act requires that you shall, as soon as practicable after receiving this report, cause a copy of it to be laid before each House of the Parliament.

Yours faithfully

Leo Bator
Chairman
DFRDB Authority

10 October 2005

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ABOUT THE DFRDB SCHEME

The Defence Forces Retirement Benefits Scheme (DFRB), established in 1948 by the Defence Forces Retirement Benefits Act 1948 (the DFRB Act), was closed to new contributors from 30 September 1972. It continues to provide for the benefit entitlements of those members who ceased to be contributors before 1 October 1972 and for reversionary benefits to their spouses.

The Defence Force Retirement and Death Benefits Scheme (DFRDB) was established by the Defence Force Retirement and Death Benefits Act 1973 (the DFRDB Act) and came into operation with effect from 1 October 1972. The Scheme provides occupational superannuation for Australian Defence Force (ADF) members who became contributors on or after 1 October 1972, and for members who were contributors to the DFRB Scheme on 30 September 1972 and were compulsorily transferred to the DFRDB Scheme on 1 October 1972.

description of the scheme

The DFRDB Scheme is an unfunded defined benefit superannuation scheme. There is no investment fund for the DFRDB Scheme and all benefits are paid from the Consolidated Revenue Fund.

Members of the DFRDB Scheme contribute at the rate of 5.5 per cent of highest incremental salary for rank plus Service Allowance and recognised Environmental Allowances. Contributions are paid directly to the Consolidated Revenue Fund every fortnight.

Other than in the case of the separate 3 per cent Productivity and Superannuation Guarantee arrangements, members have no entitlement to an employer element if they resign before completing twenty years service. Unlike most other defined benefit superannuation schemes, age at retirement plays only an incidental part in calculating benefit entitlements; the key to the scheme is the length of the member's effective service. Members who retire from the ADF after twenty years of effective service (or after fifteen years service at retirement age for rank) are entitled to a pension, based on a percentage of their annual pay on retirement. Members who are retired from the ADF on invalidity grounds may also be entitled to a pension. Benefits are also payable to the surviving eligible spouse and children on the death of a member or pensioner.

Members with less than twenty years service or who have not reached their compulsory retiring age for rank are entitled to a refund of contributions, a Superannuation Guarantee amount, a productivity benefit separately funded by the Department of Defence and, if applicable, an unfunded gratuity based on completed years of service.

closure to new entrants

With the commencement of the Military Superannuation and Benefits Scheme (MSBS) on 1 October 1991, the DFRDB Scheme was closed to all new entrants. Members of the DFRDB Scheme could choose to remain in the DFRDB Scheme or to transfer to the MSBS. All new ADF members since 30 September 1991 have automatically become members of the MSBS, with the exception of former ADF members who have been receiving a DFRDB benefit and on re-entry to the ADF choose to rejoin the DFRDB Scheme.

The DFRDB Authority is responsible for the general administration of the DFRDB Act, subject to the direction of the Minister Assisting the Minister for Defence.

The Authority is provided with administrative support by the staff of ComSuper (Commonwealth Superannuation Administration), who assist the Commissioner for Superannuation in performing functions as Chairman of the DFRDB Authority. ComSuper is responsible for the day-to-day administration of the DFRDB Scheme, as well as other superannuation schemes for ADF and Commonwealth employees.

the DFRDB Authority

The administration of the MSBS is covered separately in the Military Superannuation and Benefits Board of Trustees No. 1 Annual Report 2004-05. Information about ComSuper's operations can be found in the Commissioner for Superannuation Annual Report 2004-05. The DFRDB Authority is established by section 8 of the DFRDB Act. The Commissioner for Superannuation is ex-officio Chairman of the Authority, in accordance with paragraph 8(2)(a) of the DFRDB Act.

There are four other Authority members, all of whom are appointed by the Minister. These members are appointed for two years, in accordance with subsections 8(3) and 8(5) of the Act, and may be reappointed at the end of their term.

Members of the Authority at 30 June 2005 were:

Mr Leo Bator, Chairman

Mr Brian Paule, Deputy Chairman
(appointed from 26 April 2004 following the retirement of Mr Phillip Charley)

CAPT Timothy Barrett, Nominee of the Chief of Navy
(appointed from 6 December 2004 following the resignation of CAPT Richard Longbottom)

COL Michael Milford, Nominee of the Chief of Army
(appointed 26 November 2003 following the resignation of COL Michael Kehoe)

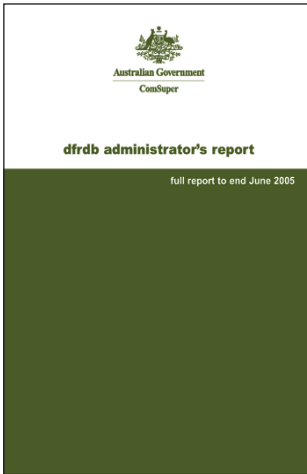
GP CAPT John Hewitson, Nominee of the Chief of Air Force
(appointed 11 July 2003 following the retirement of Mr Andre Bobets).



Standing (from left):
GP CAPT John Hewitson,
COL Michael Milford

Seated (from left):
Mr Brian Paule,
CAPT Timothy Barrett
Mr Leo Bator

The DFRDB Authority



administrative agreement

In March 2005 the Authority considered a review of its agreement with ComSuper for the provision of administrative services. This review was conducted in the context of tri-partite discussions over funding and service levels for military superannuation schemes generally. The MSB Board and the Department of Defence were parties to those discussions.

A revised agreement in respect of services to DFRDB members was subsequently prepared.

In relation to Service Level Agreements ComSuper reports regularly to the Authority against all service standards. Performance data is collected monthly. An annual effectiveness review is also provided. The Administrator Reports presented to the Authority also form the basis of the performance data contained in this publication.

delegations

The Authority delegates most of its powers to ComSuper staff to enable day-to-day administration.

The Authority retains certain powers, which include reconsideration of decisions and the treatment of persons as if they had been medically discharged when they had been discharged on other grounds.

status under the SIS legislation

The DFRDB is an Exempt Public Sector Scheme for the purposes of the *Superannuation Industry (Supervision) Act 1993* (SIS), and is therefore deemed to be a complying superannuation fund under the Income Tax Assessment Act and the Superannuation Guarantee (Administration) Act.

Although the Authority endeavours to comply with the spirit of the SIS legislation it is not necessary for the DFRDB Authority to elect that the Scheme become a Regulated Superannuation Fund subject to the prudential requirements in the SIS legislation. The DFRDB is, however, subject to the Tax File Number and rollover/transfer requirements in the SIS legislation that apply to Exempt Public Sector Superannuation Schemes.

Military Superannuation Communications Committee (MSCC)

The Military Superannuation Communications Committee (MSCC) is a combined communications committee that services both the DFRDB Authority and the MSB Board.

The MSCC Charter includes:

- policy and planning which sets the strategic direction of communications to members of the DFRDB scheme and the MSBS
- overseeing the preparation of annual reports
- evaluation and research related to communications activities
- overseeing implementation of communications activities ensuring compliance with all legal requirements
- governance of its own activities.

The Committee met six times during the year.

Maintenance of DFRDB contributor accounts is a significant function undertaken by the Authority's administrator, ComSuper, in conjunction with the Department of Defence. The process of collecting and applying data to contributor accounts is highly automated. Variations to contributions information are routinely processed within days of the relevant payday. The quality of data processed is generally high, however, any incorrect, inconsistent or missing data is investigated by ComSuper member account maintenance staff in consultation with the Department of Defence and any necessary corrections or updates are carried out.

Accordingly, the Administrative Agreement between the Authority and ComSuper sets out a service standard that is aimed at maintaining this situation. This contrasts with other sections of this report which deal with more labour-intensive activities involving direct client contact, such as member communications and payment of benefits, where specific service standards are set on a yearly basis.

collection, recording and maintenance of member information

As the Authority's administrator, ComSuper:

- maintains records of contributing members, preserved benefit members and pensioner members to facilitate, among other things, accurate and timely communications, the accurate and timely payment of benefits and various reporting requirements
- ensures that adequate systems, procedures and controls are in place to meet the administration and reporting requirements of the Act and associated legislation
- at the direction of the Authority, arranges for an independent audit of those systems and controls to be undertaken from time to time.

system changes

In 2004–05 the administration system used to support the DFRDB Scheme (CAPITAL) was upgraded to enable the acceptance and distribution of ancillary contributions to member's accounts.

A major overhaul of the actuary statistics production sub system was also undertaken.

surcharge

The *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, more commonly referred to as 'the surcharge', requires ComSuper to report surchargeable contributions for all DFRDB members to the Australian Taxation Office (ATO) annually. The legislation applies a tax on employer financed contributions, in the form of a surcharge on surchargeable contributions, provided the member's adjusted taxable income is greater than the surcharge threshold. It is specifically targeted at higher income earners.

The DFRDB Scheme is classed as an unfunded defined benefit scheme for the purposes of the surcharge legislation. In order to have a basis on which to calculate the surcharge contributions, the services of the Australian Government Actuary were employed to develop notional surchargeable contributions factors for calculating surchargeable contributions. The factors are periodically updated by the actuary. On receipt of surchargeable contributions information from ComSuper, the ATO matches that data with the member's taxable income. If this exceeds the surcharge threshold, the ATO determines the amount of surcharge debt applicable to the member and reports this data to the member and the superannuation provider.

A DFRDB member may choose to acquit the surcharge debt immediately, pay it off in instalments, or have it deducted from his or her benefit on exit.

In 2004-05 the ATO reported surcharge debts incurred by 989 members totalling \$2 029 670. Thirty-one members repaid surcharge debts totalling \$95 961, while \$2 076 097 was recovered from 279 members benefits paid during the year. Interest totalling \$482 066 was applied to member surcharge debts that remained outstanding as at 30 June 2005.



The Authority aims to provide members with comprehensive information about all aspects of the DFRDB Scheme.

Communication with members occurs through the distribution channels of the Department of Defence. There is also direct client contact with ComSuper.

At the direction of the Authority, ComSuper undertakes a communications program aimed at improving members' knowledge and understanding of the scheme so that they are in a position to make informed decisions at times when these need to be made. This program includes the range of communications required by SIS and recognises the particular needs of members.

Specifically, ComSuper provides a range of communications to members on benefit entitlements and queries relating to the general administration of the scheme in writing, over the phone and electronically. ComSuper continuously seeks ways to improve these communications.

ComSuper also provides a range of seminars broadly in accordance with demand, issues member information statements and makes available various scheme publications both in hard copy and electronic format.

General communication is by means of correspondence, service newspapers, newsletters, the Internet, individual counselling and presentations given at Defence transition seminars and other seminars at ADF establishments. Information about the DFRDB Scheme is provided in response to requests from Defence establishments and individuals. Information is also provided through publications about various aspects of the Scheme. Appendix 2 lists currently available publications.

counselling and information activities

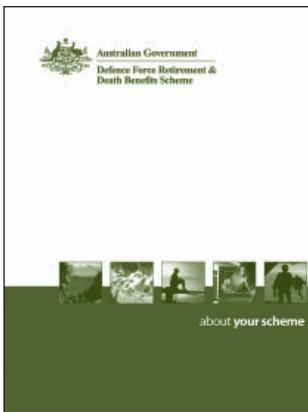
2004-05 saw a considerable increase in telephone and email contacts from members, and a reduction in written correspondence.

Most member contacts are by telephone, with an average of 1 275 telephone calls recorded per week compared with 912 last year. The Interactive Voice Response (IVR) telephone service recorded receipt of 66 321 calls from military (MSBS and DFRDB) members, an increase from last year's figure of 47 463.

Emails from military members answered totalled 5 787, an increase on the 3 628 completed last year.

ComSuper staff responded to 2 724 written enquiries from military members, a decrease on 6 583 completed last year.

During the year, ComSuper provided personal counselling for 1 941 military members. Presentations were given at 57 seminars, attended by 2 446 DFRDB members. A further 17 seminars relating to medical discharge were presented to 723 military members.



Additionally, the Contact Centre responded to 603 requests for information about the superannuation entitlements of DFRDB or MSBS members under the new family law arrangements.

pensioner communications

The Contact Centre helps military pensioners understand their superannuation entitlements and maintain their pension accounts in accordance with the service standards agreed between the Board and ComSuper.

Information officers can be contacted by telephone, letter, facsimile or email. Pensioners with hearing impairments can use a special teletypewriter (TTY) facility. Information officers are available for personal counselling at ComSuper's office. Pensioners who use the Internet can get general information from the DFRDB website.

member statements

The Authority aims to distribute annual member statements well ahead of the SIS-required deadline of 31 December. The 2003-04 member statements were distributed by 21 September 2004. While surpassing SIS requirements, statements were delivered within the standard requirements; a better result to that achieved in 2003.

The statements provide DFRDB contributors with equity figures, withdrawal benefits, surchargeable contributions and details of any surcharge debt where applicable. Members also receive an *About Your Statement* leaflet, and a *Member Contact Details* form as part of their statement kit.



table 1: most requested web pages 2004-05

1	DFRDB Book
2	SIS Regulations
3	Form D2o (Retirement)
4	Pensioner Services Online
5	Member Services Online
6	SIS Legislation
7	Family Law Legislation
8	DFRDB Act
9	Benefits
10	Family Law Methods and Factors

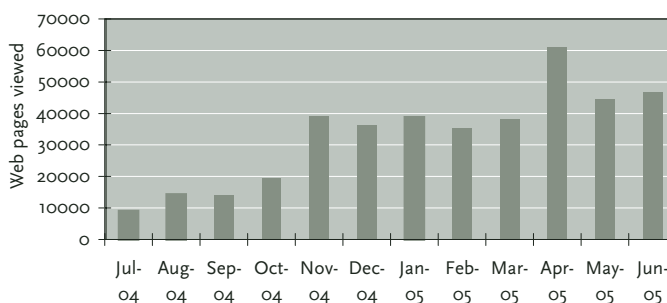
website access

Member Services Online provides members with a range of secure services, including the calculation of benefits and the ability to view their annual statement online. During the year, 1 069 statements were accessed and 2 152 benefit estimates produced online.

Of all the schemes administered by ComSuper, DFRDB members have the highest rate of website usage.

Chart 1 shows usage of the website in 2004-05. Table 1 shows the ten most requested web pages during the current year.

chart 1: dfrdb website usage 2004-05



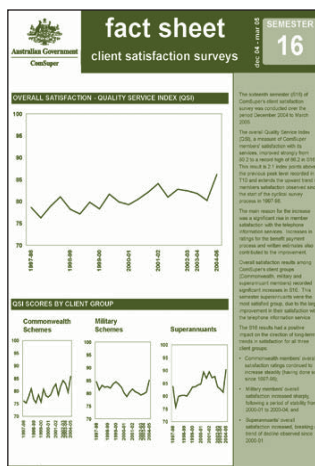
member feedback

During 2004-05 ComSuper again conducted client satisfaction surveys with the assistance of the Canberra-based firm Orima Research. The quality of services surveyed is consistently rated highly, with scores in this years survey being higher than at any other time on record.

The Quality Service Index (QSI) for military clients, introduced to measure the survey results and to enable comparison between survey periods, currently shows around 85% satisfaction. The scores for the military schemes in each of the seventeen survey periods since data collection began in 1997-98 show a consistent level of client satisfaction within the 80-85% range.

The survey results are fed into ComSuper's continuous improvement process. Where necessary, action plans are derived and reported against. Many changes have been made to ComSuper's procedures as a result of the survey feedback.

The Authority is pleased with the positive feedback obtained from clients on the quality of services received.



All applications for benefits from contributors and preserved benefit members are processed in a timely manner and in accordance with relevant legislation.

There are services and performance standards relating to the payment of benefits. These apply to all benefit types such as resignation, retirement, invalidity and death.

The standards for the processing of military schemes benefit applications were monitored by the Authority throughout the year. Chart 2 shows the number of DFRDB benefit applications processed during 2004-05.

Chart 3 shows the average time to process benefits in each month of 2004-05.

A comparison of the dollar value of benefits paid in 2004-05 with the previous four financial years is set out in Table 2.

chart 2: benefit applications processed 2004-05

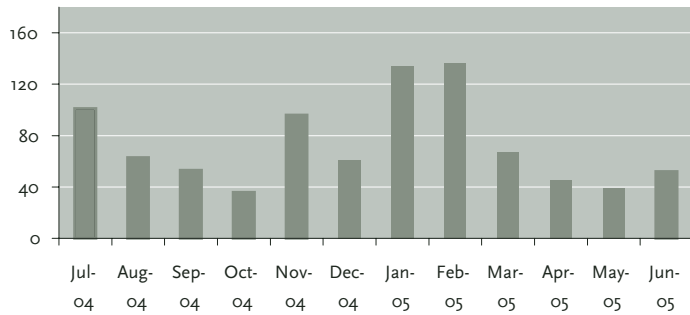


chart 3: average time to process benefit payments 2004-05

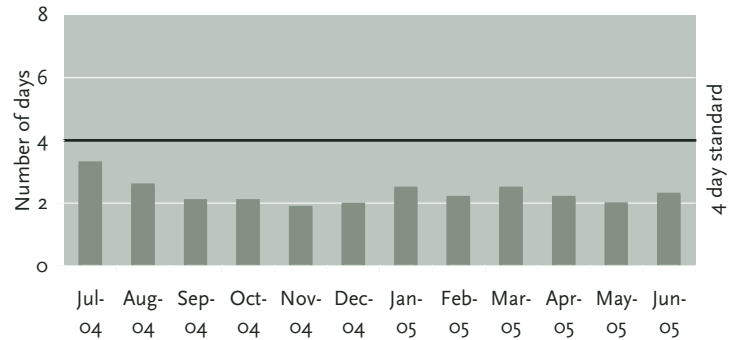


table 2: benefits paid in the past five years

Benefit type	2000-01 (\$'000)	2001-02 (\$'000)	2002-03 (\$'000)	2003-04 (\$'000)	2004-05 (\$'000)
Pension payments	899 125	974 878	1 015 868	1 052 283	1 085 048
Lump-sum payments and transfer values	138	92	52	231	0
Refunds of contributions	3 137	2 296	1 542	1 877	532
Commutation payments	181 824	141 628	176 512	149 567	164 680
Total benefits paid	1 084 224	1 118 894	1 193 974	1 203 958	1 250 260

gratuities

Certain members who leave the defence force without an entitlement to a pension are entitled to a refund of their contributions plus a gratuity. A gratuity is a sum of money paid to some members in the form of a one-off bonus. Although gratuities are usually only payable to other rank members, some officers are also entitled to receive them. Once a member becomes entitled to retirement pay or invalidity pay he or she is not eligible to receive a gratuity.

Gratuities totalling \$25 000 were paid to members who exited in 2004-05.

commutation

Members retiring from the defence force may commute (that is, exchange) part of their retirement pension for a lump sum. Retiring members can receive a maximum commutation lump sum of up to five times their retirement pay. During the year, 2 993 members elected to commute part of their pension.

preservation of rights

Under certain circumstances, members who leave the Scheme without a pension entitlement can elect not to receive a refund of their contributions. Instead, they may defer their benefit or transfer it to another eligible superannuation scheme.

Members who elect to defer their benefit must enter full-time public sector employment within ninety days of their exit date. When their combined defence force and government service reaches twenty years, they become entitled to a reduced DFRDB pension. Ninety-seven members elected to defer their entitlements in the Scheme in 2004-05.

Members who elect to transfer their benefit must do so to a superannuation scheme that has been declared as eligible by the Minister for Finance and Administration. 'Eligible' superannuation schemes are generally linked to government employment. Once a benefit is transferred to another scheme, the member's benefits are determined solely by that scheme.



pension variations

reversionary benefits

All applications for reversionary benefits following the death of a pensioner (that is, eligible spouses, children and orphan pensions) are processed in a timely manner and in accordance with relevant legislation.

spouse benefits

At 30 June 2005, 7 647 spouses were receiving pensions under the provisions of the DFRB and DFRDB Acts.

child and orphan benefits

At 30 June 2005, 410 children and orphans were receiving pensions under the provisions of the DFRB and DFRDB Acts.

pension increase/advice

ComSuper processes pension increases in accordance with relevant legislation.

DFRDB pensions are automatically increased twice yearly in line with upward movements in the Consumer Price Index (CPI) for the six months ending 31 March and 30 September each year.

In 2003-04, the Australian Bureau of Statistics announced a CPI change of 1.4% for the period to March 2004 and 0.9% for the period to September 2004.

Pensioners received a statement in July 2004 and January 2005 showing their new rate of pension. Their income tax payment summary and other relevant information is included with the July statement.

invalidity payments (new grants)

Invalidity decisions are taken either by the Authority's Committee of Alternates (C of A) or, in straightforward cases, under delegation held by ComSuper.

In determining invalidity benefits it is ensured that due process is followed, that claims are processed expeditiously, that legislative requirements are met and that guidelines issued by the Authority are followed.

The defence force retirees members on the grounds of invalidity if they do not meet the required standard of fitness, even though they may be capable of employment of a similar nature in the civilian workforce.

invalidity classification

A member of the scheme who is retired on the ground of invalidity (that is, a physical or mental incapacity to perform his or her duties) is eligible for invalidity benefits. The rate of invalidity benefit depends on the member's level of incapacity to undertake appropriate civilian employment at that time.

The determination of benefits payable to members who retired from the ADF as medically unfit for further service is a major function of the Scheme's administration. The Authority takes into account a member's employment capacity and medical condition to establish the appropriate invalidity classification. The rate of benefit payable to a recipient member may be altered if the pensioner's level of incapacity to undertake civilian employment deteriorates or improves.

on-site medical assessments

ComSuper contracts the services of Health Services Australia doctors to assess a member's incapacity, having regard to the medical history provided by the Department of Defence. These arrangements allow faster processing and consistency in assessments.

invalidity decision timeframe

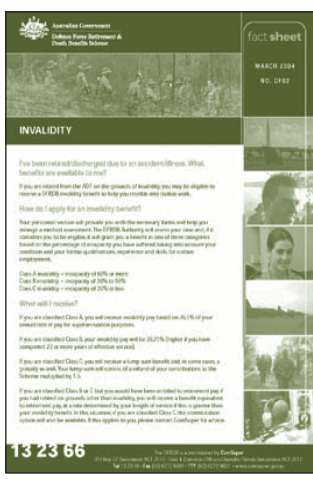
Invalidity classifications took an average of 4.2 days to finalise during 2004-05. This was a slight increase on the average achieved in 2003-04.

invalidity classification review

The Authority or its delegates may from time to time review the classification of invalidity pensioners either of their own volition or at the request of pensioners.

Decisions by the Authority to classify members as Class A or B are reviewable at intervals determined by the Authority. A member who believes that his or her classification has altered since it was last considered may request that the classification be reviewed.

There were a handful of employment review cases which fell outside the agreed service level standards each month in 2004-05.



DFRDB members can seek reconsideration of primary decisions made under the DFRDB Act by the Authority or its delegates. In such cases decisions are reviewed by the Authority. A decision of the Authority may subsequently be appealed to the Administrative Appeals Tribunal (AAT), from which an appeal may also be made to the Federal Court on a point of law. Members also have rights of review under the Administrative Decisions (Judicial Review) Act 1977.

internal review

Requests for reconsideration are investigated in a thorough, objective and effective manner in accordance with any guidelines issued by the Authority.

A person affected by a primary decision of the Authority or a delegate may request the Authority to reconsider that decision. Almost any action taken in the administration of the DFRB and DFRDB Acts can be the subject of a request for reconsideration. Decisions on reconsideration are not delegated but are taken by the Authority itself.

The Authority must confirm or vary the decision and inform the person of the result, in writing. The person is given a copy of the statement of the reasons for the decision and details of the evidence considered. The person is also advised about appeal rights to the AAT.

Ninety-three requests for reconsideration were received from DFRB and DFRDB members during the year, a decrease of one from those received in the previous year, adding to the 21 cases carried over from 2003-04. Of the 63 cases finalised during the year, the Authority confirmed 24 cases on reconsideration, while 15 cases were varied in favour of the applicants. Another 24 cases were lapsed or withdrawn with the applicant failing to pursue the matter. Fifty-one requests remained under investigation on 30 June 2005.

The majority of requests for reconsideration concerned the amount of invalidity benefit payable, either on discharge or at subsequent reviews. Other typical matters included determination of grounds for retirement, recognition of prior service, and spouses' entitlements.

ComSuper's Schemes Reconsideration Section undertakes the preliminary investigation of cases, with the reconsideration process normally involving the assembly of information additional to that available to the primary decision-maker.

external appeals

The DFRDB Act provides that applications may be made to the AAT for review of reconsidered decisions made by the Authority. If the Authority's decision is adverse to the applicant, information about the right to apply for review by the AAT is included in the advice of the decision. Applications to the AAT come under the procedures and practices of that body, as provided for in the *Administrative Appeals Tribunal Act 1975* and the practice directions issued by the AAT President. A party to a proceeding before the AAT may appeal to the Federal Court

on a question of law arising from the decision of the AAT. Since 16 May 2005 the concurrence of the President of the AAT must be obtained before the question of law may be referred to the Federal Court.

Systems are in place to facilitate the expeditious processing of matters that go to the Superannuation Complaints Tribunal, the Federal Court and other jurisdictions such as the Human Rights and Equal Opportunity Commission (HREOC).

The Authority also monitors the outcome of external appeals and their implications.

table 3: outcomes of external appeals in the past five years

	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Decisions affirmed	4	2	3	10	6
Decisions varied	-	-	2	-	-
Decisions set aside / conceded	1	8	4	9	6
Applications dismissed	3	1	2	5	7
Applications withdrawn	1	8	2	2	1
	2	2	9	10	5
Total	11	21	22	36	25

Administrative Appeals Tribunal

During 2004-05, 18 applications for review were lodged with the AAT in addition to the 25 which were carried over from the previous year. Of the 25 applications resolved during the year, the Authority's decision in six matters was affirmed and in six was set aside. The Authority conceded seven cases on the basis of new evidence. Five applications were withdrawn by the applicants and one matter was dismissed for lack of jurisdiction. Twenty-one AAT matters were outstanding as at 30 June 2005.

Federal Court of Australia

Under section 44 of the AAT Act, a party to a proceeding before the AAT may appeal to the Federal Court of Australia on a question of law arising from any decision of the AAT in that proceeding. Since 16 May 2005 section 45 (1) of that Act requires the concurrence of the President of the AAT to be obtained before a question of law may be referred to the Federal Court. There were two appeals by members to the Federal Court during 2004-05, with one member's appeal to the Federal Court dismissed with costs and the other is still outstanding. Both

appeals were lodged prior to 16 May 2005 and thus neither required the approval of the President of the AAT.

High Court of Australia

No matters were referred to the High Court of Australia during 2004–05.

judicial review

The *Administrative Decisions (Judicial Review) Act 1977* [the AD (JR) Act] provides an alternative external review mechanism. The AD (JR) Act entitles a person aggrieved by an administrative decision taken under Commonwealth legislation to seek, on specified grounds, an order for review of the decision in the Federal Court. Section 13 of that Act provides that an aggrieved person may, without first applying to the Federal Court, ask that the decision-maker furnish a statement in writing, setting out the findings on material questions of fact. The statement must refer to the evidence or other material on which those findings were based, and give the reasons for the decision.

There were no orders for review and no requests for a statement of reasons under the AD (JR) Act in respect of decisions made under either the DFRB or DFRDB Acts during 2004–05.

Recent HREOC Decision

In June 2005 the Human Rights and Equal Opportunity Commission (HREOC) dismissed a complaint by seven complainants who had alleged that DFRDB life expectancy factors which are different for men and women contravene the *Sex Discrimination Act 1984*. The HREOC concluded that the Authority is legally required to comply with the *Defence Force Retirement and Death Benefits Act 1973* and therefore its actions in applying the life expectancy factors set out in a Schedule to the Act do not amount to sex discrimination.

claims

During the 2004-2005 financial year the Authority received two claims for compensation with five cases outstanding as at 1 July 2005.

The Authority denied liability in four of these cases with one claim remaining outstanding. Liability was accepted in two cases with payments of \$7 403 and \$341 respectively.

complaints

Systems are in place for dealing with complaints and representations made by Parliamentarians and the Ombudsman, and requests made under the *Freedom of Information Act 1982* (the FOI Act).

In 2004-05, 23 complaints and 13 parliamentary representations were received. The subject of complaints were varied, covering issues such as payment delay, surcharge query, invalidity review and accuracy of benefit estimates.

In addition, Ministerial Representations relating to policy issues were received and responded to within the Department of Defence. In 2004-05 there were 103 relating specifically to the DFRDB Scheme which included 77 on the life expectancy tables used to calculate residual post-retirement pensions. There were also 90 on pension indexation arrangements that related to both the DFRDB and the MSBS schemes.

freedom of information

All requests for documents and amendments to personal records are handled by ComSuper's Corporate Reporting and Parliamentary Liaison Unit.

DFRDB and DFRB members made 79 requests for access to documents during 2004-05. Seventy-six requests were granted in full and one partially. Two were refused. The requests took an average of four days to process.

Enquiries relating to the documentary disclosure of information about the personal affairs of clients of the agency under the provisions of the Freedom of Information Act should be directed to:

Freedom of Information Unit
ComSuper
PO Box 22
Belconnen, ACT 2616

Facsimile: (02) 6272 9804
Telephone: (02) 6272 9080
TTY: (02) 6272 9827
Email: foi@dfpdb.gov.au

contributors

As the scheme is no longer open to new members, the number of contributors has continued to decline, falling to 7 252 as at 30 June 2005. Chart 4 shows the number of contributors during 2004-05. Table 5 shows the number of DFRDB contributors since 2000-2001, and Chart 5 shows the age profile of DFRDB contributors at 30 June 2005.

chart 4: dfrdb contributor membership 2004-05

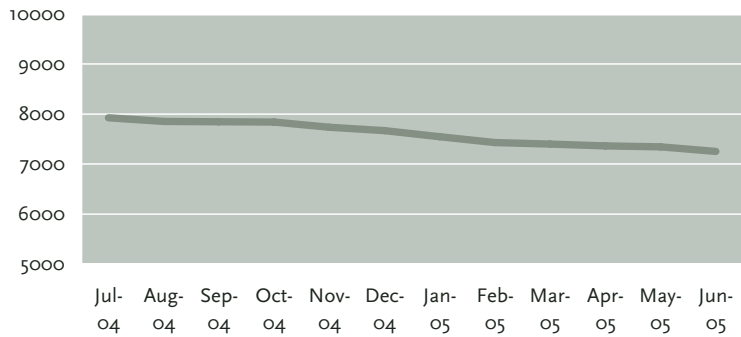
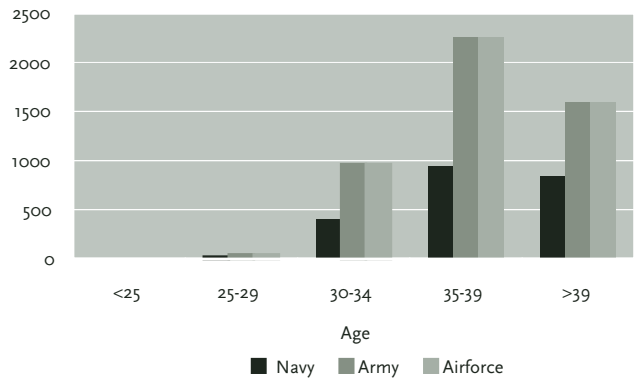


table 4: contributors in the past five years

	2000-01	2001-02	2002-03	2003-04	2004-05
Navy					
Male	2 731	2 407	2 120	1 903	1 739
Female	132	103	96	83	69
Subtotal	2 836	2 510	2 216	1 986	1 808
Army					
Male	5 836	4 977	4 402	4 054	3 727
Female	291	235	189	181	158
Subtotal	6 147	5 212	4 591	4 235	3 885
Air Force					
Male	2 561	2 170	1 894	1 700	1 507
Female	114	79	62	58	52
Subtotal	2 675	2 249	1 956	1 758	1 559
All Services					
Male	11 148	9 554	8 416	7 657	6 973
Female	537	417	347	322	279
Total	11685	9971	8763	7979	7 252

chart 5: age profile of contributors at 30 June 2005, by service



contributions received

Contributions received during 2004-05 totalled \$27 717 000, a 1.85 per cent fall from 2003-04, consistent with the declining contributor numbers.

pensioners

At 30 June 2005, 56 587 persons were receiving pensions under DFRDB and DFRB legislation. This represents an overall increase of 391 from 30 June 2005. Table 6 shows pensions in force by type and Scheme as at 30 June 2005.

table 5: pensions in force by type and scheme at 30 June 2005

	DFRB	DFRDB	Total
Retirement	1 552	42 852	44 404
Invalidity	834	2 293	3 127
Reversionary			
- spouses	2 613	5 034	7 647
- children and orphans	14	396	410
Redundancy	2	997	999
Total pensions	5 015	51 572	56 587

financial resources

Financial resources for the payment of pensions and lump sum benefits are provided from the DFRB and DFRDB special appropriation, which is held by the Department of Defence. Contributions by members of the DFRDB Scheme are paid into revenue item 'Superannuation (DFRDB)—payments by members received', which is also held by the Department of Defence.

debtors

At 30 June 2005, \$967 000 was due to the Authority in benefits overpaid under the DFRDB and DFRB Schemes. The most common cause of overpayment is late notification to the Authority that the recipient is deceased and therefore is no longer entitled to receive the benefit. The bulk of these involve deceased estates.

Administrative processes are in place to ensure that there is minimal chance of overpayment. Most overpaid benefits are recovered by the Authority.

During the year, debts totalling \$199,000 were written-off. There was an increase in write-offs due to the death matching exercise. Several pensions had been accessed by a third party for a considerable period after the date of death. In some instances the debts were legally not recoverable or had become uneconomical to pursue.

APPENDIX 1: DFRDB IN BRIEF

Contributors	30 June 2004	30 June 2005	Increase (Decrease)
Males	7 657	6 973	(684)
Females	322	279	(43)
Total	7 979	7 252	(727)
Pensions in force			
Retirement	44 174	44 404	230
Invalidity	3 112	3 127	15
Dependants	7 907	8 057	150
Redundancies	1 003	999	(4)
Total	56 196	56 587	391
Exits			
Retirement	879	835	(44)
Resignation	28	14	(14)
Invalidity	71	64	(7)
Death	2	7	5
Other		32	32
Total	980	952	(28)
Other			
	\$	\$	\$
Member contributions received	28 229 000	27 717 000	(512 000)
Total benefits paid	1 201 850 000	1 249 728 000	47 878 000
Total pensions paid	1 052 283 000	1 085 048 000	32 765 000
Average annual pension	19 076	19 174	98

The Authority publishes a booklet and a series of leaflets for the benefit of members:

About Your Scheme is a summary of the DFRDB, containing general information about all aspects of the scheme, but particularly its benefits. It is for the use of all members as a general reference book.

The Authority also publishes a series of leaflets that deal in more depth with specific topics. The leaflets are entitled:

About to Leave the ADF?

Dependants' Benefits

Family Law and Splitting Super

Invalidity Benefits

Preserved Benefits

Retirement Benefits

Superannuation Contributions Surcharge

Taxation Concessions—Deductible Amounts

Taxation of Benefits

A series of fact sheets are being produced. Titles released to date are:

Death and Estate Benefits

Dependants' Benefits

Family Law and Your Super

Invalidity

Preservation

Re-entering the ADF

Retirement/Resignation

Retrenchment/Redundancy

Superannuation Surcharge

Also available is the *ComSuper Service Charter 2005*.

All of these publications can be obtained from members' Pay Offices, directly from National Mailing and Marketing on telephone: (02) 6269 1020, facsimile: (02) 6260 2770, or from the DFRDB website (www.dfrdb.gov.au).

new legislation made in the 2004–05 financial year

legislative amendments

On 26 May 2005, the Attorney-General approved the Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2005 (No.4) ('the Amendment Approval').

The Amendment Approval made revisions to several family law valuation methods which were previously approved in May 2004 for valuing interests in the DFRDB.

The Approval Amendment also does the following:

- amends the definition of a factor used in the formula for one of the methods approved in May 2004 for interests held by pensioner members in the DFRDB Scheme to correct an oversight (it was overlooked in May 2004 that non-indexed retirement pay and invalidity pay, like indexed retirement pay and invalidity pay, can be suspended);
- including footnotes at the end of two tables of factors used for a method to clarify that particular factors, appearing in secondary formulas for the method, are, in a particular circumstance, zero; and
- changing references to the terms 'retirement pension', 'invalidity benefits' and 'invalidity pension', used in relation to the methods and factors approved for interests in the DFRDB Scheme, to 'retirement pay' and 'invalidity pay'.

On 26 May 2005, the Attorney-General also approved the Family Law (Superannuation) (Provision of Information – Defence Force Schemes) Amendment Determination 2005 (No. 1) ('the Determination').

The Determination is the instrument under which the Trustee is able to provide superannuation information to divorcing parties to enable them to obtain a valuation of the DFRDB benefit.

When alternative valuation methods were initially approved in relation to interest in the DFRDB in May 2004, there was no power to make the corresponding necessary changes to the Determination in relation to payment phase (pension) interests.

The Determination has now made it possible to provide the relevant information.

The *Administrative Appeals Tribunal Amendment Act 2005* came into force on 16 May 2005. The amendments, described by

the Attorney General in his second reading speech as the most substantial reform to the AAT since its inception, introduced a range of measures designed to assist the AAT meet the aims of its new formal objective statement of “providing a mechanism of review that is fair, just, economical, informal and quick”.

The amendments affect the administration of external appeals matters in the following ways:

- decision makers are now under a statutory obligation to assist the AAT during the review - the practical consequences of this is minor as the Authority through ComSuper has always endeavoured to assist the AAT to achieve a full and fair review of any decisions brought before it;
- approval of the President of the AAT must be obtained before a question of law may be referred to the Federal Court - in practice this should reduce any delays at the Federal Court stage by limiting appeals to exceptional circumstances which justify the guidance of the Court;
- the Federal Court is now permitted to make findings of fact in appeals from decisions of the AAT. The new procedure also applies to the Federal Magistrates Court where matters are transferred to that court by the Federal Court - this may require consideration at an early stage as to whether further evidence may need to be filed on the appeal;
- decision makers must now provide the AAT with all documents objectively relevant to the review of the decision by the AAT, not only those the decision maker subjectively considered relevant - this will require no variation of operational procedure as the Authority via ComSuper has always provided a complete set of documents to both the applicant and the AAT and not relied on technical arguments to exclude documents from review;
- the AAT now has power to obtain an amended statement of reasons from an applicant were the AAT considers the original statement does not assist it in identifying why the applicant believes the decision is not the correct or preferable decision;
- the President may direct that a matter or part of a matter be referred to alternative dispute resolution. The range of all alternative dispute resolution procedures available to the AAT has been expanded to include neutral evaluation, case appraisal and conciliation. In addition, a cooling off period has been introduced in relation to agreements reached in the course of alternative dispute resolution process;

- AAT Confidence Registrars now have the power to make, vary and revoke procedural directions – powers previously restricted to AAT members;
- the President has the power to issue directions determining Tribunal practice and procedure on the conduct of reviews;
- restrictions on the constitution of the AAT had been removed in order to ensure the panel is constituted by the most appropriate members for each hearing; and
- accessibility and readability of the *Administrative Appeals Act 1975* has been improved for the insertion of new headings and subheadings and plain English terms.

APPENDIX 4: CONTACT OFFICER

Information is available to Members of Parliament, Senators and members of the public on request.

In the interests of timeliness and conciseness, this report has been designed to provide only fundamental information. Requests for more detailed information should be directed to:

Ministerial Liaison Officer
ComSuper

Postal address: PO Box 22
Belconnen, ACT 2616

Street address: Unit 4
Cameron Offices
Chandler Street
Belconnen, ACT 2617

Telephone: (02) 6272 9081
Facsimile: (02) 6272 9804
TTY: (02) 6272 9827

APPENDIX 5: GLOSSARY

AAT	Administrative Appeals Tribunal
ADF	Australian Defence Force
AD (JR) Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>
commutation	conversion of a part of a pension to a lump sum
ComSuper	Commonwealth Superannuation Administration
CPI	Consumer Price Index
deferred benefit	payable, after twenty years combined ADF and government service, to members with a refund entitlement who leave their benefit in the Scheme
DFRB	Defence Forces Retirement Benefits
DFRDB	Defence Force Retirement and Death Benefits
FOI	Freedom of Information
gratuity	a one-off bonus payment paid to some members on resignation. It is usually only paid to 'other rank' members
incapacity	the degree to which the disorder that caused a member's retirement affects his or her ability to perform appropriate civilian work. The basis for determining invalidity benefits
invalidity	a mode of retirement resulting from a disorder or disorders that render a member unfit for further military service
MSB	Military Superannuation and Benefits
MSBS	Military Superannuation and Benefits Scheme
MSCC	Military Superannuation Communications Committee
no-detriment	provision that ensures that certain officers receive a DFRDB benefit at least the equal of the DFRB benefit for which they were contributing before the DFRB Scheme closed
preservation	used colloquially to refer to deferred benefits and to the transfer of benefits
productivity	a benefit component for all members, accruing since January 1988 and funded by the Department of Defence
re-entered recipient	a contributor who has rejoined the Scheme having previously received a DFRDB pension
reversionary benefit	the benefit payable to eligible spouses and children (including orphans) of a contributor, pensioner or preserved benefit member who dies
Superannuation Guarantee	arrangements which mean that a member who receives a refund entitlement is entitled to an additional payment to bring the employer benefit to a minimum required amount
surcharge	<i>Superannuation Contributions Tax (Assessment and Collection) Act 1997</i> , a tax on employer-financed superannuation contributions
transfer value	an amount paid to an eligible superannuation scheme on behalf of a member who leaves the DFRDB without a pension entitlement

APPENDIX 6: COMPLIANCE DETAILS

While this report is not a Departmental annual report, the Authority has endeavoured to comply with the 'Requirements for Departmental Annual Reports', where applicable. Details of ComSuper's operations are provided in the Commissioner for Superannuation Annual Report 2003-04. Annual reporting requirements that are met in the Commissioner for Superannuation's report are indicated below by an asterisk.

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APPENDIX 7: SERVICE CHARTERS

ComSuper maintains a service charter for scheme members. The service charter for 2005 is available from the ComSuper website at www.comsuper.gov.au

Performance against the standards set out in this charter is included in this report.

Freedom of Information Act statement

This statement is provided in accordance with section 8 of the *Freedom of Information Act 1982* (the FOI Act).

functions of ComSuper

The general functions of ComSuper are described in the main body of this report and in the Commissioner for Superannuation Annual Report 2004–05.

decision-making powers

The power of the DFRDB Authority to administer the provisions of the *Defence Forces Retirement Benefits Act 1948* and the *Defence Force Retirement and Death Benefits Act 1973* is set out in section 8 of the DFRDB Act. The power of the Authority to delegate its powers and functions is set out in section 15. The application of those powers is summarised in this report, while the details are published separately in the DFRDB Authority Annual Report.

FOI internal procedures

All requests for documents are referred to ComSuper's Corporate Reporting and Parliamentary Liaison Unit. Compliance with the application fee provisions of the FOI Act are verified and the request is registered and acknowledged. The documents are then obtained and the request is considered by the unit.

Decisions to grant access, levy charges, or refuse access are made by an APS Level 5 in the Corporate Reporting and Parliamentary Liaison Unit.

Requests for internal review of FOI decisions are also referred to the unit. They are then forwarded to the Reconsideration Section where they are investigated by Executive Level 1 officers prior to submission to the Authority for decision under section 54 of the FOI Act.

facilities for access

Facilities for viewing documents are provided only at the ComSuper office in Canberra, as ComSuper has no regional offices. Publications may be inspected at ComSuper's Corporate Reporting and Parliamentary Liaison Unit, and copies (for which there may be a charge) can be obtained by writing to ComSuper.

Information about facilities for access by people with disabilities can be obtained by contacting the Corporate Reporting and Parliamentary Liaison Unit at the address and telephone numbers shown on page 27 of this report.

consultative arrangements

Informal and ad hoc arrangements exist whereby the national, state and territory branches of the Regular Defence Force Welfare Association may make representations relating to the general administration of the scheme. Representations are also received which relate to the determination of individual contributors' benefit entitlements.

Requests for consultation and/or representations relating to policy aspects of the schemes and their underlying legislation are referred to the Superannuation Branch of the Department of Defence which has responsibility for advising the Minister Assisting the Minister for Defence and the Minister for Veterans' Affairs on such matters.

categories of documents

The Authority maintains no categories of documents that are open to public access as part of a public register or otherwise, in accordance with an enactment other than the FOI Act, where that access is subject to a fee or other charge.

A booklet, leaflets and fact sheets that describe various aspects of the Defence Force Retirement and Death Benefits Scheme, and annual reports, are made available to the public free of charge upon request. They are also available free of charge via the DFRDB website (www.dfrdb.gov.au).

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