



The Hon De-Anne Kelly BE MP

Federal Member for Dawson
Minister for Veterans' Affairs
Minister Assisting the Minister for Defence

Mr Walter Lee

Dear Mr Lee

Thank you for your e-mail of 7 November 2005 concerning benefits for same sex partners of members of the Australian Defence Force.

While privacy provisions prevent me from discussing the details of Mr Takamisawa's case, I can advise that benefits such as the war widow/er's pension can only be provided if a person satisfies the eligibility criteria set out in the legislation. For a person to be entitled to lodge a claim for the war widow/er's pension, the person must have been a dependant of a veteran at the time of the veteran's death. A dependant of a veteran is the partner of a veteran, or a widow or widower of a veteran, other than a widow or widower who marries or remarries. A person is a member of a couple, or partner, if:

- " (a) the person is legally married to another person and is not living separately and apart from the other person on a permanent basis; or
- (b) all of the following conditions are met:
 - (i) the person is living with a person of the opposite sex (in this paragraph called the partner);
 - (ii) the person is not legally married to the partner;
 - (iii) the person and the partner are, in the Commission's opinion (formed as mentioned in section 11A), in a marriage-like relationship;
 - (iv) the person and the partner are not within a prohibited relationship for the purposes of section 23B of the *Marriage Act 1961*."

You will see that same sex partners do not satisfy criterion (b)(i) of the above definition.

You may be aware that on 10 October 2005 the Government approved the extension of certain conditions of service entitlements to members of Australia's Defence Force in interdependent relationships, including same sex relationships.

The extension of these conditions of service will take effect from 1 December 2005. However, the change will affect only those conditions provided by the Department of Defence and does not flow on to other statutory schemes such as superannuation and compensation.

While I respect your views, I have to advise that there are currently no plans to amend the legislation to extend benefits to partners of homosexual members or ex-members of the Defence Force.

Thank you for taking the time to write to me about this matter.

Yours sincerely

A handwritten signature in black ink that reads "De-Anne Kelly". The signature is written in a cursive style and is underlined with a single horizontal stroke.

De-Anne Kelly MP

14 DEC 2005