

**From:** admin@adfra.org  
**Sent:** Thursday, 26 March 2020 8:57 PM  
**To:** 'DSFC - DL'  
**Subject:** RE: 200326 - Ellerbock - acknowledgment of CDDA claim [SEC=UNCLASSIFIED]

Dear Mr Reilly,

Thank you for your prompt response to my application.

It seems to me that you are building a platform for rejecting my application on the basis of the Ombudsman's conclusion that *"most members who commuted before 2010 were unlikely to have sustained a loss as a result of their decision to commute"*.

I reject that conclusion in the Ombudsman's report because of its reliance on biased financial modelling, which applies inflation to the commutation lump sum but not to the retirement pay forgone in respect of that commutation.

That modelling methodology cannot produce any other conclusion, which probably explains why the Ombudsman is withholding the Terms of Reference for the financial modelling he requested of the Government Actuary and KPMG.

Perhaps you could provide those Terms of Reference and prove me wrong?

Were the financial modelling not biased it would not matter when members commuted, because the effect would have been the same regardless of the prevailing inflationary conditions. As I have demonstrated in the attachment to my application.

It is not just a matter of disappointment that every member who lives beyond the life expectancy, which determined his or her reduction of retirement pay after commutation, suffers a financial loss. It is an inalienable fact, and no legal practice or principle can alter that. I am confident you understand that.

It is not unreasonable to conclude that the purpose of the Ombudsman's investigation was to try and appease DFRDB members and since it was Defence funded, to ensure that its findings would not impact on the Defence Budget which, incidentally, funds the DFRDB scheme.

Defence presumably, also funds DSFC and the CDDA Scheme. So, is the sham that was the Ombudsman's investigation an indication of what we can expect here?

Yours sincerely,

Herb Ellerbock  
0418 549 749

P.S. Stay clear of COVID-19.

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**From:** Reilly, Anthony MR 1 [mailto:anthony.reilly1@defence.gov.au] **On Behalf Of** DSFC - DL  
**Sent:** Thursday, 26 March 2020 12:15 PM

**To:** Herb Ellerbock <[herbell@bigpond.net.au](mailto:herbell@bigpond.net.au)>

**Subject:** 200326 - Ellerbock - acknowledgment of CDDA claim [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Dear Mr Ellerbock

I confirm that we have received your claim under the Compensation for Detriment caused by Defective Administration (CDDA) scheme. I have been tasked to investigate your claim.

I will ask CSC to provide their file so I can see their contemporaneous documents from when you elected to commute. In the meantime, I see that your calculations compare the difference between your pension being restored to the full amount at the end of the commutation period and not being restored at the end of the commutation period. You will be aware that the Ombudsman specifically rejected that approach on the grounds that it reflects the disappointment of not getting a benefit you thought you were going to get, but it does not reflect a loss as understood by legal practice and principle. The Ombudsman concluded that most members who commuted before 2010 were unlikely to have sustained a loss as a result of their decision to commute, but left open the possibility that there may be outliers who can establish an actual loss. I understand that you may disagree with the Ombudsman's approach. Nevertheless, for you to be paid compensation under the CDDA scheme, you will need to establish how your situation differs from others who commuted before 2010 and who the Ombudsman was satisfied did not sustain a compensable loss.

I look forward to hearing from you. I am happy to discuss by phone if you prefer.

Regards

Anthony Reilly  
Directorate of Special Financial Claims  
Defence Legal  
CP2-4-018

Tel: 02 6266 4320

Mob: 0417 068670

Please note I am mainly working remotely at present. My mobile number is more reliable to speak to me by telephone.

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**From:** Herb Ellerbock <[herbell@bigpond.net.au](mailto:herbell@bigpond.net.au)>

**Sent:** Wednesday, 25 March 2020 8:22 PM

**To:** DSFC - DL <[dsfc.dl@defence.gov.au](mailto:dsfc.dl@defence.gov.au)>

**Subject:** Scheme for Compensation for Detriment Caused by Defective Administration - Application

To Whom it may concern,

Please refer to my application under the Scheme for Compensation for Detriment Caused by Defective Administration (CDDA Scheme).

Yours sincerely,

Herb Ellerbock

0418 549 749