

Ex-gratia payments (Viet Nam veterans' children)

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Policy

1. Purpose

- 1.1 This policy is about the ex-gratia awards payable in respect of Viet Nam veterans' children diagnosed with eligible conditions.
- 1.2 Payments that may be made under this policy are:
 - *ex-gratia payment to veteran's child* — paid to a Viet Nam veteran's child diagnosed with an eligible condition
 - *ex-gratia payment to family* — paid to immediate family of a Viet Nam veteran's child who has died of an eligible condition.

2. Legislative reference

- 2.1 These payments are not legislated. We provide them under clauses 9.1 and 10.1–10.2 of a 2006 Memorandum of Understanding between the Crown, the Ex-Vietnam Services Association, and the Royal New Zealand Returned & Services Association.
- 2.2 The Memorandum of Understanding was in response to longstanding concerns of the Viet Nam veteran community, including about the veterans' exposure to a toxic environment in Viet Nam.

3. Eligibility

- 3.1 For an individual to be eligible under this policy as a veteran's child, they must:
 - be the veteran's natural-born child; and
 - have been born after the veteran's return (temporary or permanent) from qualifying operational service in Viet Nam.

Ex-gratia payment to veteran's child

- 3.2 *Ex-gratia payment to veteran's child* is paid to a veteran's child diagnosed with any of the accepted conditions:
 - cleft lip
 - cleft palate
 - spina bifida
 - adrenal gland cancer
 - acute myeloid leukaemia.

- 3.3 It is a one-off payment, so may not be paid more than once to an individual (even if diagnosed with more than one accepted condition).

Ex-gratia payment to family

- 3.4 *Ex-gratia payment to family* may be paid if the veteran's child dies from an accepted condition (as listed at 3.2). This is regardless of whether or not we have made an *ex-gratia payment to veteran's child*.

- 3.5 Payment is to the immediate family (could be deceased's child, grandchild, spouse/partner, parent/main caregiver, sibling):
- within immediate family, payment should normally be to the person(s) in the closest relationship to the deceased
 - outside immediate family, no payment may be made.

4. Amount of ex-gratia award

- 4.1 For both types of ex-gratia award under this policy, amount paid is \$30,000.

5. Processing of ex-gratia claim

- 5.1 There is no ex-gratia claim form. Instead, any potential entitlement should be treated as a claim. Potential entitlement might come to our attention through:
- our review of a client's case notes; or
 - a query (or other communication) from a potentially eligible individual or their support person.
- 5.2 Ex-gratia claims should be given urgency.

Evidence needed for award to veteran's child

- 5.3 For *ex-gratia payment to veteran's child*, we need the following evidence (originals or certified copies):
- proof of the veteran's Viet Nam service
 - full birth certificate showing claimant is the veteran's natural child, born after the veteran's return from Viet Nam
 - sufficient medical evidence to confirm an accepted condition.

Evidence needed for award to family

- 5.4 For *ex-gratia payment to family*, we need the following evidence (originals or certified copies):
- proof of the veteran's Viet Nam service
 - full birth certificate showing the deceased was the veteran's natural child, born after the veteran's return from Viet Nam
 - death certificate showing the death was from an accepted condition
 - any additional evidence needed to establish who should be paid (in some cases might involve a statutory declaration, or further follow-up).

6. Case management of veteran's child

- 6.1 When we confirm a claimant is the child of a Viet Nam veteran, a case manager should be assigned. Case managing of the claimant should continue:
- to the end of the claim; or
 - for a limited period beyond the end of the claim, if this would be helpful to the claimant.

7. Decision on ex-gratia claim

- 7.1 The Head of Veterans' Affairs makes a recommendation to the Minister for Veterans, as to whether an ex-gratia award should be paid. The decision is made by the Minister.

8. Exemption from tax & asset/income testing

- 8.1 Ex-gratia payments under this policy are exempt from New Zealand income tax.
- 8.2 Both the payments and interest earned on them are exempt from Work and Income asset/income testing.
- 8.3 Accordingly, once payment has been made and the Ministerial letter sent, we should also send the ex-gratia recipient:
- a letter advising of the exemptions (and advising overseas recipients to consider getting advice on whether tax or asset/income testing may apply locally)
 - an authorisation form to sign (so we can pass information about the payment to Work and Income, if asked to).

9. Other assistance

- 9.1 The following trusts can make grants to Viet Nam veterans or family members. Both trusts set out on their websites the kind of situations they will consider assisting:
- **Viet Nam Veterans & their Families Trust**
May assist Viet Nam veterans or their families with some expenses, to relieve poverty or hardship.
www.communitymatters.govt.nz/viet-nam-veterans-and-their-families-trust
 - **Vietnam Veterans (Neville Wallace Memorial) Children's & Grandchildren's Trust**
May assist children or grandchildren of Viet Nam veterans to realise their potential.
www.evsayouthtrust.org.nz

Glossary

qualifying operational service *[as in Section 8 of the Veterans' Support Act 2014]*

Means:

- (a) service on any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; and
- (b) service on any deployment declared to be operational service under section 9 of the Veterans' Support Act 2014.

veteran *[as in Section 7 of the Veterans' Support Act]*

Means:

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (b) a person:
 - (i) who has been:
 - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
 - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
 - (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
 - (i) section 19 (but only if the person was a member of the forces):
 - (ii) section 55 or 56:
 - (iii) Parts 4 and 5