

DEFENCE FORCE REMUNERATION TRIBUNAL

MATTER No. 3 OF 2009

ADF OFFICER AVIATION REMUNERATION STRUCTURE

REASONS FOR DECISION

Background

[1] On 6 August 2007 the Tribunal approved the placements of Australian Defence Force (ADF) officers, other than specialists, within the Graded Officer Pay Structure (GOPS). In our Reasons for Decision on 31 October 2007, we approved the placement of Aircrew 0-2 years post wings at Pay Grade 3; Aircrew with 2-4 years experience in Pay Grade 3A (being a temporary pay grade); Aircrew with 4-6 years experience at Pay Grade 5; Aircrew with 6-8 years experience at Pay Grade 7; Aircrew with 8-10 years experience at Pay Grade 9; and Aircrew with 10+ years experience at pay grade 10. We also approved the placement of Air Force Air Traffic Control (ATC) with a single level rating at Pay Grade 3; ATCs with dual ratings at Pay Grades 5 and 7 and ATC Command appointments at Pay Grade 8.

[2] Air Force has introduced a new employment group, Air Combat Officers (ACO), comprising ATC (Navigation), ACO (Air Electronics) and ACO (Aerospace Battle Management). Officers newly recruited to this employment group are currently progressing through the Defence Force Academy and new ACO specialisation courses are being developed for them.

[3] Once these courses are complete the ADF will return to the Tribunal and seek a substantive placement framework for the ACO employment category. It was also said that the development of the ACO construct would raise the need to consider the role of pilots in the overall officer workforce.

[4] On 15 April 2008, the ADF briefed the Tribunal on the Aircrew Sustainability Project (ASP), its primary purpose being to “*establish a sustainable workforce model for ADF aircrew capable of delivering the required capability with effective return on investment*”. The ADF listed three primary objectives for the project: delivery of an acceptable and sustainable aircrew remuneration system; delivery of a non-financial initiatives framework and the delivery of sustainable workforce structures in order to meet ADF/Defence capability requirements. To achieve these objectives, the ADF presented a “*Total Employment Package*” concept, which included remunerative elements within the jurisdiction of the Tribunal.

Submissions and Evidence

[5] In a series of Agreed Statement of Facts between the ADF and the Commonwealth, the key features of the proposed ADF Officer Aviation Remuneration model include:

- (a) The erection of a remuneration ‘system’ - the Officer Aviation Remuneration Structure (OARS), which seeks to manage the ADF aviation workforce as a singular group in recognition of the unique external market and internal capability drivers impacting the sustainability of the group.

- (b) The provision of a series of flexible remuneration ‘levers’ within the OARS which are specifically designed and uniquely applied to accommodate the unique characteristics of the Aviation and Air Traffic Controller (ATC) workforces and which may be applied differentially to facilitate Service specific desired effects.
- (c) The erection of an OARS with 3 major structural constituents:
 - (i) a GOPS placement profile for Aviation Career Members who will be managed against the traditional posting and promotion profile and be expected to compete and undertake command and management positions.
 - (ii) a Specialist Aviation Spine, to accommodate members in an alternate career management system and is concerned with the employment of members at the tactical level without access to promotion and command and management employment;
 - (iii) an Aviation Capability Allowance capable of being flexibly applied and adjusted in accordance with internal and external environments and circumstances, guided primarily by capability risks.
- (d) The disposal of the historical ‘all of one company’ and time based approach to the placement of ‘Aircrew’ which has resulted in common placements within the GOPS of all Aircrew categories based on the culmination of time post award of ‘wings’.
- (e) The identification of three distinct Aircrew employment categories: Pilot, RAN Observer and RAAF Air Combat Officer (comprising 5 distinct sub streams) and the differential assessment of each stream for GOPS placement purposes.
- (f) The identification of key competencies to inform pay grade advancement within the GOPS for Pilots, RAN Observers and RAAF Air Combat Officers which are consistent with the broader relativities established within the 2007 GOPS placement exercise and the philosophy underpinning the revised Other Ranks placement model within the 2008 GORPS placement exercise.
- (g) An amendment to the placement of the Air Traffic Controller employment category within the GOPS to accommodate the role of the Detachment Commander and to provide consistency and appropriate relativities between the placement of Aircrew and ATC.
- (h) The establishment of a Specialist Pay Spine to accommodate members of the Officer Aviation specialisations who forgo promotion and career broadening employment and are engaged exclusively in flying or air traffic control duties.
- (i) The establishment of a framework and key performance indicators for the application of a flexible ADF Aviation Capability Allowance designed to mitigate unacceptable capability degradation caused by an inability to retain sufficient numbers of relevantly trained and experienced Aircrew or

Air Traffic Control Officers.

- (j) The establishment of a body of ADF Management Principles which govern the operation of all elements of the proposed aviation remuneration model.
- (k) The accommodation of a specific and defined group of ADF personnel to maintain access to the existing time based placements currently accommodated by GOPS as a 'Legacy System':
- (l) The exclusion of the consideration of the Flying Disability Allowance in the context of this matter noting its inclusion in a Strategic Allowance Review being undertaken by the ADF currently scheduled for consideration by the Tribunal in the second half of 2009.
- (m) The development of arrangements for protecting the remunerative entitlements of members presently within the Aircrew workforce, i.e. the Legacy Workforce, which includes the following:
 - (i) Serving aircrew officers who were accommodated by time based placement within the GOPS up to the Date of Effect of a DFRT OARS Determination.
 - (ii) Aircrew Officers who were accommodated by the time based placement within the GOPS who re-qualify and transfer to a different Aircrew specialisation.
 - (iii) Officers or trainee officers who have yet to commence Flying or ATC training, but who have been made a formal offer of employment as ADF aircrew or ATC officers, and have formally accepted that offer prior to the Date of Effect of a DFRT OARS Determination.
 - (iv) Officers of Foreign Military Forces (i.e. 'Lateral Transfers') who have been made a formal offer of employment as ADF Aircrew/ATC officers and have accepted that offer prior to the Date of Effect of a DFRT OARS Determination.
 - (v) Reserve aircrew officers who were remunerated as aircrew under the Time-Based System, provided that they render active reserve service within three years from the Date of Effect of a DFRT OARS Determination or the date they transferred to the active Reserve, whichever later.
 - (vi) Ex-ADF aircrew officers who rejoin the permanent force provided they have rendered active Reserve service within three years from the Date of Effect of a DFRT OARS Determination or the date they transferred to the active Reserve (whichever is later).

[6] The following GOPS competency based placements were sought in the context of the OARS proposal:

Navy	PG	2	3	4	5	6	7	8	9	10
	Pilot	WINGS	PARC	PARC +2	PARC +5	QFI, TP	FLTCDR XO	(GOPS: Establishment Command)	Aviation Command	
	Obs	WINGS	ORBC	ORBC +2	ORBC +5	QOI, ASQ, AvWO	FLTCDR XO	(GOPS: Establishment Command)	Aviation Command	
Army	PG	2	3	4	5	6	7	8	9	10
	Pilot	WINGS	ROBC	ROBC +2	ROBC +5	QFI, TP, A Cat (GOPS: Sub Unit Command)	(GOPS: PSC Appointment)	(GOPS: Unit Command)		
Air Force	PG	2	3	4	5	6	7	8	9	10
	Pilot	WINGS	OPCON (+ Hawk)	OPCON +2 (Hawk +2)	OPCON +5 (Hawk +5)	QFI, TP, FCI	TIER 3 Command & Management	TIER 2 Command & Management	TIER 1 Command & Management	
	ACO	WINGS	OPCON (+ Hawk)	OPCON +2 (Hawk +2)	OPCON +5 (Hawk +5)	QAI, FTSS, FCI/FCC, ABM, WMC	TIER 3 Command & Management	TIER 2 Command & Management	TIER 1 Command & Management	
	ATCO	SATC	1st Primary Endorse ment		Single Rating	Dual Rating	Detachment Commander	(GOPS: plus 1 for Command)		

Inspections

[7] The Tribunal undertook an extensive range of inspections as part of the review. These inspections covered the full range of aviation in Navy, Army and Air Force. The inspections were conducted in the period 28 April 2009 to 27 May 2009 and included:

- (a) 28 April 2009, RAAF Base Darwin – Air Combat Group (ACG) and Surveillance and Response Group (SRG), including a static display of the new Wedgetail aircraft. The inspection included briefs on Air Combat Officers (ACO), Air Battle Managers, Navigators, Airborne Electronics Officers and pilot competencies. Key attributes of the Air Traffic Controller (ATC) workforce was also reviewed. The Tribunal also conducted an inspection of 1 Aviation Regiment and participated in a static display of the new Armed Reconnaissance Helicopter (ARH - Tiger).
- (b) 29 April 2009, RAAF Base Tindal – included the exposure to F/A-18 Hornet operations during a large force employment exercise, being Exercise Arnhem Thunder 09.
- (c) 18 May 2009, 5th Aviation Regiment (RAAF Base Townsville) – including the competencies and employment of Army pilots on the S-70A Blackhawk and CH-47 Chinook platforms. The Tribunal observed mission planning, execution and debriefing as well as crew coordination in the context of an airmobile mission and the practical execution of an airmobile mission. The Tribunal also conducted an inspection of A Squadron, which is currently tasked with the introduction of the new MRH-90 aircraft.

- (d) 19 May 2009, RAAF Base Amberley – 82 Wing, including familiarisation of the employment of Pilots and Air Combat Officers operating the F-111 variants, with briefings being undertaken on future capability transitions, including primarily the introduction of the F/A-18F Super Hornet. The Tribunal also inspected 33 Squadron (part of 84 Wing) Air Lift Group. The squadron will provide air-to-air refueling and transport capabilities and future operation of the KC-30A Multi Role Tanker Transport (MRTT). Additionally the Tribunal also inspected 36 Squadron, (part of 86 Wing) Air Lift Group, with briefings and practical demonstration of the C-17 Globemaster III.
- (e) 21 May 2009, RAAF Base Edinburgh – Aerospace Operations and Support Group. The Tribunal how this Group provides Air Force with Information Warfare, Air Systems Development and Testing capabilities. The Tribunal inspected the work of 92 Wing, Surveillance and Response Group, with briefings and practical demonstrations of competencies of pilots and ACOs in the maritime environment and overland Intelligence, Surveillance and Reconnaissance (ISR) capabilities.
- (f) 25 May 2009, HMAS ALBATROSS – 723 Squadron, 816 Squadron and 817 Squadron, with briefings and practical demonstrations of structure of the Navy Aviation Group and the future strategic direction for Navy Officer Aircrew and their employment. The Tribunal also inspected the work of the Aircraft Maintenance and Fleet Trials Unit.
- (g) 26 May 2009, RAAF Base Williamstown – Surveillance and Control Training Unit (a unit of 41 Wing) during which the Tribunal observed presentations and demonstrations regarding Surveillance and Response Group (SRG) structure and roles, Aircrew competencies employed within SRG and the implications of the introduction into service of the Wedgetail AEW&C; and ATC competencies.
- (h) 27 May 2009, ADF Basic Flying Training School, where the Tribunal was engaged in Tribunal members will be engaged in presentations covering the structure and roles of Air Force Training Group, the pilot selection and training process, and the competencies of and employment of ADF Qualified Flying Instructors and Qualified Aviation Instructors.

Capability Allowance

[8] In the Tribunals Remuneration Reform Project (RRP) Reasons for Decision 27 February 2006 (Matter 2 of 2003), regarding the application of Capability Allowances, we said:

“Any special attraction and retention considerations would be incorporated in separate s.58H Capability Allowances, which may go up or down or be retracted, but which would remove distortions from other allowances. The ADF submitted:

“The ADF position is that the remuneration structure must maintain the capacity to respond promptly to capability related attraction and retention issues but that attraction and retention issues should not influence pay grade placement and should be attended to by raising separate s.58H allowances.”

The factors relevant to raising a Capability Allowance were specified as: sustainability, contribution and criticality to the provision of ADF capability and the cost of replacing capability. The ADF went on to refer to s.58B of the Act and said:

“This section is utilised currently and has been used extensively in the past to raise allowances and bonuses for attraction and retention purposes. It remains open to the ADF to pursue this jurisdiction to raise allowances and bonuses. In relation to the proposed remuneration structure, the ADF proposes to raise capability related attraction and retention allowances pursuant to section 58H. It is submitted that this is desirable for the purpose of maintaining relevant and appropriate relativities in the quanta and application of such allowances.”

In its closing submission, on 7 December 2005, the ADF put a different interpretation on the intended use of s.58H Capability Allowances. It submitted that a capability allowance is envisaged as a mechanism to respond to enduring market forces related pressure.

“The s.58H Capability Allowance is proposed as a means to mitigate long term, exceptional and enduring capability related attraction and retention pressures. It is not intended to address “moment by moment” market forces driven pressures by this means. These matters will continue to be the subject to the application of s58B allowances.”

Further,

“Application for a s.58H Capability Allowance would involve an acknowledgement that the relevant attraction and retention pressures confronting the ADF are long term in nature, and the likelihood that they will diminish significantly over time being not great, but possible.”

[9] The Tribunal did not agree with the ADF premise and in the RRP Decision stated:

“We see the role for any s.58H Capability Allowance, proposed by the ADF as an element of the system, as providing a temporary or varying adjustment, should it be necessary in response to market exigencies. Since long term adjustment in relativities is properly expressed as a change in how the work is valued, we do not see how the argument for a long term correction factor can be sustained, as the ADF proposed in its closing submission. Rather, we agree with the ADF’s opening submission on 24 August 2004. A Capability Allowance, envisaged there, must of its nature be temporary, or varying over time. Being an allowance, it would be subject to two yearly review, as required by the legislation. As an adjustment mechanism in response to varying conditions, the Tribunal envisages that a Capability Allowance would either be determined for a maximum period of two years or be subject to detailed review at that point. We doubt the wisdom of a temporary or varying payment being made superannuable, given the operation of the present military superannuation schemes.

The Tribunal does not intend that the parties be constrained in considering the role of s.58H Capability Allowance by the cycle time that currently applies to pay cases contemplated by the ADF. The Act provides that the Tribunal is to “inquire into and

determine the salaries and relevant allowances to be paid to members” of the ADF. In doing so, the Tribunal is not limited to practices developed by the parties in the past, but may determine its own processes, just as the ADF may adapt its management practices. If determining short term adjustments is important to maintaining the integrity of the system now introduced, the Tribunal will apply an appropriate process. Implementation of RRP provides the opportunity for the parties to rethink matters that may previously have been regarded as “givens”.

We want to be clear on this. We reject the ADF’s closing submissions about the role of any Capability Allowance in the officers’ salary system; we consider the ADF’s opening proposal in this case is appropriate, save for the superannuation aspect, and intend to operate as set out above.”

The Returned and Service League of Australia (RSL)

The Regular Defence Force Welfare Association (DFWA)

[10] In a written submission to the Tribunal, the RSL and DFWA offered their full support to the introduction of a capability allowance for ADF Aircrew and ATCs under the scheme as proposed.

Decision

[11] The Tribunal accepts the pay group placements proposed by the ADF and the Commonwealth. We endorse those placements.

[12] In respect to the introduction of a capability allowance we make the following observations.

[13] The parties relied to a large degree on data found in two CAPA reports which forecast trends for the worldwide aviation industry. The Tribunal was informed that these trends would have an adverse impact on the operational capability of the ADF. While we accept the submission and agree that an increased demand for pilots/aircrew would put pressure on the ADF, we raised our concern that if such eventuates in 2011, as is forecast, it is possible that there would then be the need to revisit the application of the Capability Allowance in 2011.

[14] The Tribunal maintains its previously expressed view that the introduction of a Capability Allowance should only address pressing and short term attraction and retention problems that would have substantial affect on ADF operational capability. Any Capability Allowance would be determined for a maximum period of two years or be the subject of a detailed and comprehensive review at the expiration of the two year period, or sooner if considered necessary.

[15] We note the strong support for the introduction of the Capability Allowance by the Commonwealth and despite our reservations we give our cautious approval of the allowance as sought by the ADF. The Capability Allowance will remain in place for a period of two years from the date of this decision.

[16] We propose to closely monitor the implementation and effectiveness of the Capability Allowance on the retention of pilots/aircrew and we will require a report back from the ADF each six months after the date of introduction. The report back proceedings should address the Key Performance Indicators which the ADF discussed during proceedings.

[17] Further the matter will be relisted for further proceedings prior to the expiry of the two year period. At that hearing the parties will be required to present comprehensive submissions and reasoning if they are proposing a continued need for the allowance. Any submission will be required to address the allowance fundamentally rather than merely seeking the continuation of the Capability Allowance.

[18] We will expect the parties to ensure that the Capability Allowance retains integrity and caution that it not be considered as a replacement for the Flying Disability Allowance. As we have previously noted and confirmed in this decision we consider a Capability Allowance as *“providing a temporary or varying adjustment should it be necessary in response to market exigencies.”*

[19] In summary the Tribunal has decided:

- (a) to approve the Officer Aviation Remuneration Structure;
- (b) to approved the creation of the Aviation Officer Specialist Spine;
- (c) to approve the application of the Air Traffic Controller Capability Allowance;
- (d) to approve the application of the Aircrew Capability Allowance for a period of two years.

[20] We acknowledge the contributions of all ADF members with whom we spoke during the course of the inspections for this application. We thank them for their excellent presentations and demonstrations which have assisted us greatly in our consideration of this application.

[21] We commend the ADF and the Commonwealth on the collegiate approach taken in what has been a complex and detailed case.

Appearances

R. Kenzie QC, Defence Force Advocate with A. Bradshaw for the Australian Defence Force.

M.O’Neill, Commonwealth Advocate for the Commonwealth.

Mr Phil Morrall for the Returned and Services league of Australia and the Defence Force Welfare Association

Dates and Places of Hearings

18 June 2009, Canberra

7 July 2009, Canberra

8 July 2009, Canberra

12 August 2009, Canberra