16 August 2010

DEFENCE FORCE REMUNERATION TRIBUNAL

MATTER No. 3 OF 2010

MEDICAL OFFICERS SPECIALIST CAREER STRUCTURE

REASONS FOR DECISION

The Australian Defence Force (ADF) sought to change the competency levels and salary points for Medical officers in the specialist career structure. The Tribunal approved a determination giving effect to the change as sought and we now publish our reasons for decision.

Background

Medical Officers were last reviewed by the Tribunal in July 2003 when a new salary and career structure, which removed the rank based system and introduced a structure based on competency levels with a rank overlay was approved. The structure was based on undergraduate qualifications, Internship and Residency, with four levels of competency for Permanent Medical Officers and a fifth level providing competency levels for Reserve Procedure Specialists.

Submissions and Evidence

The Australian Defence Force (ADF)

The ADF submitted that despite the introduction of the Medical Officers Specialist Career Structure (SOCS), the ADF Medical Officer workforce was experiencing acute shortfalls, with an associated negative impact on ADF capability. Significantly, remunerative bonus arrangements struck pursuant to s58B of the Defence Act have failed to substantially stabilise the workforce.

Consequently Joint Health Command (JHC) commissioned a study into the current remunerative arrangements for ADF MOs to determine whether the current structure and/or the current quanta should be reviewed and amended. The study would have regard to:

- the ability of the Services to satisfy the fundamental input to health capability;
- the extent to which remuneration is influential in retention behaviour; and
- an analysis of comparative data in external public sector awards.

The ADF submitted that:

> "*The key findings of that report were that:*
>
> *a. there was a compelling case for a review of the MO SOCS;*
> *b. the MO workforce represent a significant to extreme risk to sustainable delivery of healthcare capability;*
> *c. there is a significant and growing divergence between remuneration available to ADF MO and medical practitioners in the private and public sector; and*
> *d. salary influences the retention of MO*".[1]

[1] ADF Court Book 30 March 2010, paragraph 12.

The ADF submitted that all three Services have reported shortages in the number of Medical Officers and difficulty in retention past Return of Service Obligation (ROSO). The consistent theme from all parties was that the three Services have significant shortages that create extreme difficulty in their ability to fill positions to meet operational commitments.

The ADF conducted a new benchmarking study to align ADF Competency Levels (CL) with current external classifications. The ADF submitted that:

"*the benchmarking study:*

a. enabled valid salary comparisons to be made against the median of the Queensland, Victoria and Western Australia data;
b. provided data on a range of allowances and other benefits that are available to external medical practitioners over and above those available to ADF MO;
c. reinforced the view that remuneration for the force protection specialists (from the original MO SOCS).and procedural specialists in the public sector have been 'broadbanded' together; and
d. validated the salary rates for procedural or executive specialists in the public sector".[2]

It was submitted that there is a general perception amongst MO that they are effectively 'left behind' their civilian counterparts, particularly at the CL2 level and beyond in terms of remuneration, opportunities to specialise in areas other than Primary Health Care and to pursue long term clinical careers as opposed to a career in administrative or medical management.

It was also submitted that a significant number of MO choose to separate from the ADF at or shortly after their ROSO. "*Poor retention beyond ROSO has resulted in hollowness at the CL3 and CL4 level across all ranks*."[3]

The ADF proposed:

- to rename CL as Medical Level (ML) to differentiate them from the competency levels of other SOCS in a similar manner to that of Legal Officers who have Legal Levels (LL) and to avoid confusion in relation to the merging of CL4 and CL5;
- to retain ML1 at the current salary rates and increments as the current level of remuneration is appropriate acknowledgement of the skills demonstrated by these junior medical practitioners;
- to retain ML2 at the current salary rates and increments, but with a larger number of increments (provisionally increasing from the current three increments to seven) to recognise both the length of time taken in the ML to attain relevant postgraduate qualifications (for example FRACGP 4-6 years and FAFOEM 6-8 years) and to remunerate the Career Medical Officer who has not yet received a Fellowship but has become a Career General Duties Medical Officer;
- to discontinue the concept of CL2A, and replace it with a "+1" increment advancement to recognise the additional value to the ADF of the development of specialist military medical skills required by each of the

[2] Ibid, paragraph 39.
[3] Ibid, paragraph 47.

Services. For example, if two identical MO were at CL2-2 and one achieved a recognised additional qualification, he/she would advance to ML2-3. Both would then progress, the former reaching ML2-7 a year ahead of his/her associate. If both then achieved a primary care Fellowship, the officer with the additional qualifications would immediately advance to ML3-2 whilst the other would commence on increment ML3-1.

- to Retain ML3, but with a large number of increments to recognise and encourage the retention and ongoing clinical practice for those MO otherwise at the competency ceiling for a specialist General Practitioner; and
- combine the existing CL4 and CL5 into ML4 to address the disparity with the public sector. The public sector remunerates medical specialists, including specialist Medical Administrators, Public Health Physicians and Occupational Physicians at the same classification as other specialists such as physicians and surgeons. All specialists will be paid as ML4 unless occupying specified postings or performing specified duties designated as 'Procedural Specialists' at which time they will be paid at the nominated pay point.

A Procedural Specialist salary point was also proposed to accommodate two groups:

- Procedural Specialists who are serving in the ADF on a permanent full time or permanent part time capacity undertaking specific preparedness and/or operational specialist duties; and

- Procedural Specialists in the Reserve Forces on active Reserve days or Continuous Full Time Service.

One of the features of the Specialist Structure was that officers transferring to them would be required to forego permanent appointment in favour of fixed periods of service. A 'safety net' was applied to protect MO who did not wish to transition to the SOCS. Those officers remained on the old non specialist rates. This was termed the 'Legacy System'. The ADF submitted that it is intended to phase out the Legacy System as soon as possible by encouraging those who remain within it to transfer to the SOCS.

Three ADF witnesses were called.

Major General Paul Alexander, Commander Joint Health Command, was called at the invitation of the Tribunal.

Major General Alexander gave evidence on the importance of the development of a joint service delivery model that would get maximum effectiveness out of the MO work force by moving to a model that would "*increase mental health capability, our rehabilitation services and social welfare services all in a multi-disciplinary environment*". He also said that the model will result in ADF MO being employed within major teaching hospitals as well as throughout defence establishments.

Captain Elizabeth Rushbrook, RAN, the Director of Navy Health, gave evidence on the critical shortage of MO in all three Services which are having an adverse effect on operational capability.

In her evidence Air Commodore Tracy Smart, the Director General Garrison Health Operations, endorsed "*the proposed contemporisation of the MO SOCS model as an*

appropriate measure to assist the ADF in recruitment and retention of its MO capability to meet government requirements". She said that "*the key to maintaining this capability in the recruitment, development and retention of MO, is supported by further evolution of professional and clinical skills development opportunities, and the provision of increased remuneration that recognises the value of MO to the ADF*".

As a side issue the Air Commodore submitted that Air Force nurses are "*disadvantaged in the current SOCS system*" and that "*there is work going on at the moment in Air Force to look at addressing that.*"

The Commonwealth

The Commonwealth submitted that its position "*is that the proposals of the ADF are not opposed.*"

The Commonwealth acknowledged that the ADF took a conservative approach in relation to remuneration and that the ADF were looking to introduce non-remunerative measures to assist in attraction and retention.

Decision

Having considered the submissions and evidence the Tribunal approved the revised structure and remuneration as sought by the ADF.

In coming to our decision we:

- acknowledge the importance of MO support to operations and note that this has been problematic due to shortfalls in the number of MO available for deployment;
- note the support of the Commonwealth;
- accept the revised rates have been appropriately set based on bench marking against the remuneration packages of like categories and competencies in civilian employment;
- accept the ADF submission that the revised structure and clinical development regime will enhance the ability of the ADF to attract and retain dedicated and experienced Medical Officers; and
- note the recognition of the competencies of procedural specialists.

The Tribunal would also like to thank the three expert witnesses for their evidence which greatly assisted us in coming to our decision.

In regard to Air Force nurses, who on a number of occasions have raised the issue of different treatment when compared to Navy and Army during our visits, we welcome the evidence of Air Commodore Smart that this was currently under consideration. The Tribunal has on a number of occasions stated the importance of internal relativities in the ADF salary structure.

We ask the ADF to report back on the outcome of the ADF examination of this issue by 29 October 2010.

Appearances

R. Kenzie QC, Defence Force Advocate with Ms S Robertson for the Australian Defence Force.

M O'Neill, Commonwealth Advocate.

Dates and Places of Hearings

30 March 2010 Canberra

31 March 2010 Canberra

20 April 2010 Canberra