



Australian Government
Defence Force Remuneration Tribunal

DECISION

Defence Act 1903

s.58H(1) – Determination of the salaries and relevant allowances to be paid to members

MEDICAL PROCEDURAL SPECIALISTS

(Matter No. 22 of 2012)

THE HON. A. HARRISON, PRESIDENT
THE HON. A. BEVIS, MEMBER
BRIGADIER W. ROLFE, AO (Ret'd), MEMBER

CANBERRA, 4 SEPTEMBER 2013

Introduction

[1] This decision relates to an application by the Australian Defence Force (ADF) to replace the current single pay point for Medical Procedural Specialists (MPSs) with a new pay scale that provides an “on entry” rate and six annual increments.

[2] This matter was heard before the Tribunal in Canberra on 14 February 2013 and 13 March 2013. Mr R. Kenzie AM QC, assisted by Ms S. Robertson, appeared on behalf of the ADF. Mr J. O'Reilly, assisted by Ms S. Farrelly, appeared on behalf of the Commonwealth. Commodore (CDRE) Elizabeth Rushbrook appeared as a witness for the ADF at both hearings, and her affidavits were filed during the hearing of 14 February 2013.

[3] A statement regarding this matter was published by the Tribunal on 25 March 2013. DFRT Determination No. 6 of 2013, with a commencement date of 28 March 2013, was published on 25 March 2013.

Background

[4] The present pay point for MPSs in the ADF was introduced in 2010 as per DFRT Determination No. 4 of 2010 and, following subsequent Workplace Remuneration Arrangement (WRA) pay increases, is currently \$225,878 per annum¹.

[5] The ADF proposal arises from an overall review of the four Specialist Officer Career Structures – Legal, Dental, Medical Officers and Chaplains². At the time of Determination No. 4 of 2010 the ADF had not yet completed its analysis of possible employment models for MPSs and so the single pay point was always designed to be an interim measure.

The basis of the application

[6] The ADF provided a detailed and comprehensive submission regarding this matter and the Tribunal acknowledges the level of effort, research and analysis involved. The ADF submission highlights two key drivers for the introduction of new pay scale arrangements for MPSs:

- a. the introduction and implementation of the ADF Specialist Health Care Plan³, a 2010 Government election commitment; and
- b. the identified need for a competitive pay structure for current and prospective MPSs in order to meet present and future capability needs⁴.

[7] The establishment of a competitive MPS pay structure was also endorsed by the Chiefs of Service Committee in August 2011, with the recommendation that ADF qualified specialists “should be remunerated at a rate broadly equivalent to their civilian counterparts in the public hospital system”⁵.

[8] Accordingly, the proposed pay structure is based broadly on comparable structures in the Australian public health system. It provides rank-based pay bands for the permanent O4 level and below and “on-entry” rates and six annual increments for permanent O5 level and above. The “on-entry” annual salary for the latter group is \$253,947 and increases over the increments to an annual salary of \$314,430. The ADF submission notes that pay rates beyond seven years of service are not built in to the proposal, as individuals are likely to be competitive for Senior Staff Specialist and Senior Practitioner appointments in the public health system⁶.

[9] Implementation of the ADF Specialist Health Care Program started in 2010 with the development of a strategic alliance between ADF Joint Health Command, Queensland Health, the Queensland Health Skills Development Centre, the Royal Brisbane and Women’s Hospital and the University of Queensland. This has included the establishment of one MPS position at the hospital in each of the following specialist areas:

- a. Emergency Medicine;
- b. General Surgery;
- c. Orthopaedic Surgery;
- d. Anaesthetics; and
- e. Intensive Care Medicine.⁷

[10] Joint Health Command also established an ADF Registrar Training Program in 2011, with two Registrars and two junior doctors commencing duty at the Royal Brisbane and Women’s Hospital in February 2012⁸. The ADF submission notes that this program may be extended to other major public teaching hospitals in future years as a further means of meeting ADF Specialist Health Care Program goals.⁹

[11] For the purposes of identifying benchmark levels for MPS remuneration the ADF engaged the assistance of Blueline Consulting Pty Ltd, which provided a report in September 2011¹⁰ (subsequently updated in December 2012) to reflect remuneration movements in the ADF and in State public sector jurisdictions¹¹. The research and analysis outlined in the benchmarking report underpins and supports the ADF's proposition, highlighting the limitations of previous arrangements for MPSs in comparison to equivalent salary levels available in other public sector jurisdictions.¹²

[12] In order to meet the Chiefs of Service Committee-endorsed principle that MPSs should be remunerated at a rate broadly equivalent to their civilian counterparts, the ADF submission proposes the following criteria for engagement:

“A medical officer in the specialist career structure, and is:

- (a) registered to practise in Australia in an area of medical specialty; and*
- (b) approved by the Surgeon General ADF to perform duty in that area of specialty for a period of service as a Medical Procedural Specialist; and*
- (c) either of the following*
 - i. deployed overseas for the purpose of practising in that area of specialty; or*
 - ii. required to practise in that area of specialty on a regular basis for the majority of the period of service as a Medical Procedural Specialist.”*¹³

[13] ADF Joint Health Command is aiming to employ 30 full-time MPSs in the proposed pay scale, comprising of 10 Registrar trainees and 20 trained MPSs distributed across the three Services¹⁴. There will be four MPSs and two Registrars in each of the following ADF-endorsed specialty areas:

- (a) Emergency Medicine;
- (b) General Trauma Surgery;
- (c) Orthopaedic Trauma Surgery;
- (d) Anaesthesia; and
- (e) Intensive Care Medicine.¹⁵

Submissions – Commonwealth

[14] The Commonwealth supported a new tiered structure but expressed its concern that the evidence presented by the ADF did not provide sufficient justification for the significant salary increases involved, nor did it adequately address the absence of remunerative recognition for rank.¹⁶

[15] In particular, the Commonwealth submission contested the following elements of the ADF's proposal:

“a. the considerations taken into account for the benchmarking exercise, in particular:

- i. the assessment of state Right to Private Practice Allowance provisions, notably at the lower proposed MPS increment points;*
 - ii. the influence of Professional Development Allowance in setting the base salary points rather than reviewing the ADF's existing professional development provisions; and*
 - iii. the inclusion of overtime payments,*
- b. the effect of the aforementioned elements in setting the proposed pay points;*
- c. the absence of assessment of the need for a remunerative differential between level 04 and 05 officers; and*
- d. the absence of any estimate of costs of the proposal and assurances of availability of future funding within the existing Defence budget.*"¹⁷

[16] The Commonwealth acknowledged the benchmarking report and that making market comparisons in this area can be difficult. However, in its opinion the ADF proposed salary rates exceeded those required for a competitive package, particularly with regard to the private practice and professional development components.¹⁸

[17] The private practice component was of particular interest, and the calculations of the Blueline benchmarking report are considered by the Commonwealth to be an over-estimation of that which would be likely to be available to a newly-qualified MPS who would yet to be established and have a patient base.¹⁹ A 30% loading for the private practice component is, in the opinion of the Commonwealth, a more realistic calculation compared to the 65% used in the Blueline benchmarking report.²⁰

[18] The Commonwealth proposed an alternative calculation of salaries adopting different components and conclusions from the Blueline benchmarking report to that of the ADF's proposition. It contended that the current single point rate for MPSs of \$225,878 remains competitive as a base salary once additional components such as Service Allowance, superannuation and access to Professional Development Allowance is considered.²¹ The submission provided a proposed salary table applying the same 4.2% rate of salary progression applicable to the Department of Defence's Australian Public Service employees and using seven pay points as per the ADF's proposal.

[19] The Commonwealth noted that no costings were provided by the ADF with regard to the proposal²², and acknowledged that the proposed structure may take some time to mature and for the full cost implications to be realised.²³

Evidence

[20] The ADF submitted two affidavits from CDRE Elizabeth Rushbrook, Director-General Navy Health and Director-General Health Capability, dated 4 December 2012 and 11 February 2013. As noted earlier in this decision CDRE Rushbrook also appeared before the Tribunal at both hearings.

[21] CDRE Rushbrook's affidavit dated 4 December 2012 notes that the proposed MPS structure

“...will be attractive to those MPSs who enjoy the professional prestige and camaraderie derived from uniformed service – many medical specialists enjoy the experience, particularly on operational deployments involving international coalition forces, access to professional development opportunities; ...and access to professional peers. However, a competitive remuneration package will be a significant determinant of the rate of Permanent MPS candidate recruitment, retention and separation or transfer from the Permanent ADF.”²⁴

[22] CDRE Rushbrook’s affidavit also notes that the minimum duration required to train a MPS from university entry to completion of specialist training is approximately 11 to 14 years²⁵, and that entry to Specialist Training Programs (overseen by specialty Colleges) is a highly competitive process²⁶. Additionally, in order to serve in the ADF further training is required in order to obtain the minimum subset of military skills needed to deploy safely to an operational environment²⁷.

[23] CDRE Rushbrook observed that recruitment difficulties have already been observed with the pay rate comparison between the ADF and the public health sector when discussing the ADF’s salary proposition with a cross-section of MPSs.²⁸ In her opinion, the proposed salary determination would provide a career pathway for MPSs, and that the 2022-24 timeline is the earliest and best-case estimate for realisation of a mature model of the proposed structure²⁹. The Tribunal was greatly assisted by the evidence of CDRE Rushbrook.

Consideration

[24] We acknowledge that in comparison to other decisions this is a stand-alone determination, and that the potential benefits, issues and experiences with the proposed structure will only be realised over the longer term.

[25] We accept the proposition that the ADF, in seeking to meet this identified and high priority capability need, is operating in a competitive labour market. The impact of external market forces on the ability of the ADF to recruit and retain MPSs is apparent from the evidence. The unique circumstances within the ADF also make direct comparisons with a civilian environment more complex. Our key consideration is whether the ADF has taken a reasonable approach to determining MPS salary in these circumstances.

[26] The Blueline benchmarking report provided as part of the ADF’s submission details the value of the total packages available for MPSs in the civilian labour market, including consideration of components such as the Right to Private Practice Allowance, overtime, leave loading and the Professional Development Allowance. The Commonwealth’s submission tested these elements and assumptions in a comprehensive fashion, and has informed our considerations.

[27] We paid particular consideration to the views of the Commonwealth regarding the additional components referred to in the previous paragraph. We accept the submission of the ADF, and the evidence of CDRE Rushbrook, that their approach to including the Professional Development Allowance component is appropriate in these circumstances, noting that the current ADF Professional Development Allowance is a Defence Act section 58B payment due to expire in 2017 with no guarantee of extension beyond that time.

[28] Similarly, we considered the Commonwealth's contention that the Right to Private Practice component of the overall salary package was over-estimated, particularly for specialists at the start of their practice careers, and that the loading should be reduced from 65% to 30%. We acknowledge the diversity of approaches and practices across the various public sector health jurisdictions regarding private practice components of overall specialist salary arrangements. In making our deliberations on this aspect we found the evidence of CDRE Rushbrook helpful and compelling, particularly regarding the encouragement of private practice by hospitals as part of ongoing funding arrangements and structures. Accordingly, we accept the proposition that a newly-qualified specialist can expect a significant level of private practice income relatively early in their careers and that it is appropriate that this is reflected in the proposed salary arrangements for ADF MPSs.

[29] We also considered the issue of the impact of a 9% deduction for administrative fees as currently applied to specialists in the South Australian public health sector as outlined in the Commonwealth's submission, which resulted in a revised salary proposition that provided no salary increase between the 6th and 7th years of service. While we acknowledge the Commonwealth's point that the difference between the two salary propositions could be considered relatively minor in the overall picture of the competitiveness of salary levels, we accept the evidence of CDRE Rushbrook and the submission of the ADF that it could price the ADF out of a competitive market.

[30] As we have noted, it is clear that the success or otherwise of the proposed salary arrangements will only become evident over the longer term. In the absence of significant and sustained experience of the MPS labour market by the ADF, we consider that using a median calculation of the salaries available in state public sector jurisdictions, as outlined in the ADF's submission and the Blueline benchmarking report, is a reasonable means of assessing appropriate salary levels.

[31] Whilst superannuation is outside of the remit of this Tribunal, it represents a significant component of the overall package. We note that superannuation entitlements are typically more generous in the ADF than many civilian areas. This may be a factor that impacts positively upon the ADF's ability to recruit and retain MPSs across the Services.

Conclusion

[32] Having assessed the submissions and evidence we accepted the ADF's proposal. Determination No. 6 of 2013 was published by the Tribunal with a commencement date of 28 March 2013.

THE HON. A. HARRISON, PRESIDENT

THE HON. A. BEVIS, MEMBER

BRIGADIER W. ROLFE, AO (Ret'd), MEMBER

Appearances:

Mr R. Kenzie AM, AC assisted by Ms S. Robertson for the Australian Defence Force

Mr J. O'Reilly assisted by Ms S. Farrelly for the Commonwealth

Cdre E. Rushbrook RAN witness for the Australian Defence Force

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- ¹ Exhibit ADF1 page 1 para 2
 - ² Exhibit ADF1 page 4 para 12
 - ³ Exhibit ADF1 page 5 para 15
 - ⁴ Exhibit ADF1 page 4 para 11
 - ⁵ Exhibit ADF1 page 4 para 10
 - ⁶ Exhibit ADF1 pages 1-2 para 2
 - ⁷ Exhibit ADF1 page 5 para 15
 - ⁸ Exhibit ADF1 page 6 para 18
 - ⁹ Exhibit ADF1 page 6 para 19
 - ¹⁰ Exhibit ADF1 page 11 para 30
 - ¹¹ Exhibit ADF1 page 13 para 34A
 - ¹² Exhibit ADF1 page 11 para 31
 - ¹³ Exhibit ADF1 page 14 para 36
 - ¹⁴ Exhibit ADF1 page 17 para 44
 - ¹⁵ Exhibit ADF1 Annex A-5 para 14
 - ¹⁶ Exhibit Commonwealth1 page 3 para 6
 - ¹⁷ Exhibit Commonwealth1 pages 3-4 para 6
 - ¹⁸ Exhibit Commonwealth1 page 5 para 10
 - ¹⁹ Exhibit Commonwealth1 page 6 para 12
 - ²⁰ Exhibit Commonwealth1 page 6 para 13
 - ²¹ Exhibit Commonwealth1 page 9 para 25
 - ²² Exhibit Commonwealth1 page 11 para 30
 - ²³ Exhibit Commonwealth1 page 11 para 32
 - ²⁴ Exhibit ADF2 affidavit dated 4 December 2012 pages 4-5 para 12
 - ²⁵ Exhibit ADF2 affidavit dated 4 December 2012 page 6 para 16
 - ²⁶ Exhibit ADF2 affidavit dated 4 December 2012 page 6 para 17
 - ²⁷ Exhibit ADF2 affidavit dated 4 December 2012 page 6 para 18
 - ²⁸ Exhibit ADF2 affidavit dated 11 February 2013 page 2 para 5
 - ²⁹ Hearings Transcript 14 February 2013 page 46