

DEFENCE FORCE REMUNERATION TRIBUNAL
MATTER 8 OF 2008
ADF STAR RANKS REMUNERATION
DECISION

The ADF has sought a change to the structure of 07 and 08 officers salary bands.

Background

In the Tribunal's reasons for decision on the Remuneration Reform Project, issued on 27 February 2006, we approved a new salary structure to apply to General Officers in the ranks 01 – 06. However, we did not accept the Australian Defence Force's (ADF's) submission on setting salaries for 07 and 08 rank officers. We noted that separate remuneration arrangements applied for star rank officers and expressed support for more flexible arrangements to apply to these officers.

Subsequently, the Australian Defence Force (ADF) and the Commonwealth made a joint submission to the Tribunal on 12 April 2006, which was discussed in conference on 20 April 2006. They proposed a flexible remuneration model in which the Tribunal set a salary range for each rank and the Chief of the Defence Force (CDF) recommended to the Tribunal the salary levels for individual star rank officers.

On 21 April 2006 the Tribunal approved the salary ranges as proposed by the parties.

Submissions and evidence

In the present case the ADF submitted that:

- Structural adjustment is needed for 07 and 08 salary rates to take account of intrusion resulting from the placement of 06 officers in the Graded Officer Pay Structure (GOPS), to restore the bandwidths to a viable level, and to provide for reasonable movement on promotion.
- Severing the formal linkage between the Star Rank Remuneration Arrangement (SRRA) and Workplace Remuneration Arrangement (WRA), which provides identical salary outcomes, at the end of the current arrangement in November 2009 will assist overall management of the star rank group and enhance its accountability.
- Adjustment of the star rank pay bands by annual submission to the DFRT will allow more frequent review of star rank remuneration and provide the capacity to adjust quickly to changed circumstances.
- Adoption of a Total Cash Value concept for star rank officers will enhance transparency of remuneration and will allow ready remuneration comparison in terms of a 'total package'.
- Moving specialist 07 and 08 officers from the Medical, Dental and Legal Specialist Career Structures (SOCS) to the general star rank banded structure will simplify the current pay structures and demonstrate more visibly that star rank Specialist officers are part of the ADF Senior Leadership Group.
- Star rank Reservists should receive a pro-rata rate of non-superannuable salary in lieu of a private plated car, according to the number of days worked, so that they receive equitable treatment compared to their permanent counterparts.

The ADF proposed:

- a. The 07 salary range be set at \$149,340 to \$179,208 pa to take account of intrusion issues.
- b. The 08 salary range be set at \$183,986 to \$202,385 pa to recognise the nature and complexity of jobs performed by 08 officers and provide an appropriate on-promotion rate from 07.
- c. Reserve star rank officers be paid a non-superannuable allowance in lieu of a vehicle, payable in the daily rate on a pro-rata basis.
- d. Total Cash Value (TCV) be adopted for star rank remuneration, comprising:
 - o superannuable Salary;
 - o non-superannuable salary; and
 - o the benefit of a private plated vehicle.
- e. Specialist 07 and 08 officers currently paid under the Medical, Dental and Legal SOCS be moved to the general star rank structure; but Chaplains Division 5 remain in their extant Specialist Officers Career Structure (SOCS).
- f. The formal linkage between the SRRA and WRA in terms of identical salary outcomes be severed, with effect from the end of the current Arrangement in November 2009.
- g. From November 2009 the star rank ranges be adjusted by annual submission to the DFRT to take account of relevant factors that may include productivity and/or efficiency gains, comparative salary movements, attraction and retention issues and structural issues.

The ADF submitted that it had considered the feasibility of using a Total Remuneration Package but said that there were “considerable difficulties in accurately determining the employee’s superannuation contribution.”

Accordingly, it proposed instead to adopt Total Cash Value that includes:

- a. *“The Superannuable Salary Component, which is the superannuable salary payable to the officer. It will be defined by their initial position on the superannuable salary band, PLUS any superannuable loading that the Service Chief/CDF may apply having regard to the officer’s particular circumstances/value. Since they are the normal incidences of a position they would not normally be reduced unless compelling circumstances applied.*
- b. *Any Non-superannuable Salary Component. This would be a non-superannuable salary loading that may be applied, having regard to the officer’s particular circumstances and value. It differs from the above component insofar as it would normally be applied for shorter-term reasons, such as an officer being placed in a difficult or onerous appointment; or to link money to specified performance outcomes; or perhaps to recognise issues that are particular to the circumstances of the officer.*
- c. *The Value of the Private Plated Vehicle. This is the deemed value of the private plated vehicle benefit, as per the figures released by the Department from time to time.”* (Exhibit ADF1, pages 53-54.)

The motor vehicle benefit was submitted currently to be \$22,550 for 07 officers and \$24,088 at 08 and, at the officer’s discretion, could be ‘cashed out’ at those values. Consequently, the ADF proposed annual total cash value ranges of:

07	\$171,890 – 201,758
08	\$208,074 – 226,473

The ADF called one witness, Major General M.D. Slater, Head of the Defence Personnel Executive. He gave evidence that the ADF seeks a determination that sets total cash value, salary for superannuation purposes, and provides for the remainder as “other benefits” which could be delivered to the officer in a range of ways.¹ His evidence included changes to the appointment processes for 07 and 08 officers that had not been dealt with in submissions. As a consequence the Tribunal and the parties met with the General to better understand the current appointment process and how it would operate in future. The Tribunal sought information on whether the ranges determined need to take account of a change in tenure for these officers.

The Commonwealth supported the ADF proposal.

Consideration

Firstly, the ADF and Commonwealth agreed that the Tribunal has jurisdiction to determine salary payable to officers in terms of total cash value. We are satisfied it does. Section 58H sets out the functions and powers of the Tribunal in part as follows:

“(2) The Tribunal shall ... inquire into and determine the salaries and relevant allowances to be paid to members...”

where **salary** “includes pay” and **relevant allowances** are defined as “allowances by way of remuneration payable to the member ...”. We agree with the submissions that these terms are sufficiently broad to encompass the total cash value construct proposed by the parties.

Secondly, having considered the submissions and evidence, we have decided to approve the changes proposed by the ADF and supported by the Commonwealth for the remuneration of 07 and 08 officers.

In our decision of 14 November 2006, which determined the current star rank pay ranges, we commented favourably on several aspects now proposed by the ADF.

“In reaching this decision [to determine the proposed salary ranges], we took account of the fact that there was already a separate Star Ranks Remuneration Arrangement (SRRA), that the Tribunal is able to, and does, make individual determinations, that differentiation already applied within the most senior ranks by operation of a separate s.58B determination, and that there is a relatively small number of star rank officers, all visible to the Service Chiefs and CDF and whose postings and further careers are managed individually. Individual performance, future leadership succession and the criticality of the job and the person are just some of the factors considered in managing each officer’s career at this level.

The Tribunal saw no reason why differential salary determination should not also be available as a tool in recognising and managing those in the senior leadership group.

Changing the salary structure for officers in the ADF has been a major undertaking over many years. The approach we have adopted is able to

¹ Transcript of 15 May 2008, page 68.

accommodate a wide range of individual considerations and change, quickly and with minimum overhead.

It also opens a path for further reform of how salaries for star rank officers are managed. The salary ranges determined above largely encompass the salaries for star rank officers in specialist pay scales. We think it would be sensible to manage the salaries for 07 and 08 officers as a whole, within the one structure, rather than to maintain several different salary schedules covering star rank officers. Further, adopting this approach means that a separate SRRA, or including star rank salaries in the Workplace Remuneration Arrangement, is potentially superfluous. We see merit in managing star rank salaries by regular review of the set salary ranges.

We are satisfied that the CDF is best placed to make reasoned recommendations to the Tribunal on placement of officers within the salary ranges. The bottom of the range for each rank will operate as the “on promotion” rate, in the absence of a recommendation by the CDF for individual determination of another rate.”

We do not depart from that view. Further, these comments are to be read within the context of our Reasons for Decision on the Remuneration Reform Project in February 2006. There we said:

“Pay and benefits are determined by several authorities, in different categories, such that it is difficult to assess overall remuneration, particularly in making external comparisons. The following table illustrates the complexity and diversification of decision-making for ADF salary related matters.

Total Employment Package

<i>Base salary *</i>	}	
<i>Service allowance *</i>	}	
<i>s.58H Q&S allowances *</i>	}	<i>Determined by DFRT</i>
<i>s.58H Disability allowances</i>	}	
 <i>s.58B allowances</i>		 <i>Set under Ministerial delegation</i>
 <i>Deployment allowance</i>		 <i>Determined by Government</i>
 <i>Service conditions</i>	}	
- <i>allowances (various)</i>	}	<i>Set under Ministerial delegation</i>
- <i>housing assistance</i>	}	
 <i>Superannuation: employer contribution</i>		 <i>Provided by legislation</i>

** Salary for superannuation purposes*

While in the commercial world, remuneration is often expressed and monitored as Total Employment Cost, seemingly no one authority reviews the components and delivery of overall remuneration in the ADF. Further, operation of the current system implies high administrative overheads.

In this context, the RRP represents some advance. But we think that the ADF would be well repaid for developing a cohesive remuneration policy, to be advocated through the various decision processes. There has been no shortage of external reviews, and we do not suggest another. Rather, much of the necessary thinking is to be done within the ADF. The ADF has already committed to change the pay system for Other Ranks by incorporating the Qualification & Skill element of s.58H allowances into base pay - we comment on that later. But the thinking should not stop there.

Integration of the elements into total remuneration requires clarity of purpose and of the basis for movement. We observe that in cases before us, the same arguments can be, and are, advanced as justification for change of different elements of total remuneration, at different times. The RRP project provides an opportunity to improve the integrity of the ADF's remuneration system, but it is not sufficient on its own. Certainly, the Tribunal will be seeking in its determinations to assist the parties to develop and apply cohesive remuneration policy."

Accordingly, we think that determining salary for star rank officers in terms of total cash value is a sensible incremental step on the path already endorsed by the Tribunal.

The Tribunal's determination will set total cash value ranges as follows:

07	\$171,890 – 201,758
08	\$208,074 – 226,473

This in our view provides the proper comparison to the top of the 06 range, at \$152,380. It does not, however, correspond to the way 09 salaries are expressed, either in our determinations or in those of the Remuneration Tribunal. We note that the ADF's written submissions were in error in both sets of comparisons drawn. Nevertheless, we are satisfied on the ADF's other submissions that the total cash value ranges above are appropriate.

In determining the ranges sought by the parties, we considered whether an adjustment was necessary for a change of tenure for senior officers. The Tribunal accepts Major General Slater's explanation that limited tenure appointment (either for a set task or a set period) at these ranks has long been available under Defence Personnel Regulations, in addition to permanent appointment, and that the ADF intends to continue with all three types of appointment. We accept that the salary offer attached to a limited tenure promotion will sensibly take the factor of tenure into account. Since this is not a new consideration, we are satisfied that the possibility of limited tenure appointments does not warrant adjustment to the ranges proposed by the parties.

Several other aspects of the system now adopted need comment.

We note that this is a system allowing discretion – discretion for the CDF in recommending the level of total cash value within the determined range; and discretion for the officer in how part of the total cash value is to be provided.

The Tribunal considers that the integrity of the system is dependent on the capacity of the CDF to exercise discretion in placing individual officers of all three Services within the range available. By virtue of his position in the ADF command chain it is

the CDF rather than the Service Chiefs who is best equipped to provide the necessary balance and consistency across all Services. The Tribunal places great weight on the CDF's recommendations and we recommend that further development of sound star rank salary management processes, as referred to in evidence to the Tribunal, include measures to ensure that the CDF is supported by staff members with real expertise in salary administration.

Also, it is a matter of regret that the ADF's payroll software has so far constrained the range of discretion practically available to the CDF. The Tribunal has never endorsed the application of a restricted number of pay points within the range and cannot see the difference between these and 'Management Value Bands' proposed now. While it is not our role to stipulate the details of management process, as indicated in our earlier decision the Tribunal intends that the CDF have the full range available in recognising and managing those in the senior leadership group.

Further, several adjustments in thinking are necessary in operating this system. We have already referred to Major General Slater's evidence on the form of determination the ADF seeks. We agree that it should set the total cash value ranges, within which salary for superannuation purposes is also to be stipulated. The difference between the two will be available to the officer as benefits, consistent with Defence policies and tax guidelines. Consequently, each officer will have to decide how the difference between total cash value and salary for superannuation purposes is to be delivered. Where each star rank officer may always have had the option to cash out the private plated vehicle, a broader range of choice will now be explicit. In some cases, the difference between total cash value and salary for superannuation purposes will be greater than the value of a private plated vehicle.

Accordingly, in our view, this salary construct operates most sensibly by de-constructing from total cash value, rather than by building up from salary for superannuation purposes. It is total cash value that provides the sounder point for external and internal comparisons.

Nor is the terminology accidental. We think that the term "non-superannuable salary" has difficulties, given the common meaning of "salary", its defined meaning in other instruments and the range of individual choice sought by Major General Slater.

Lastly, recognising that the discretion available in star rank remuneration is greater than in the salary system for other officers and that operating such a system is relatively new to the ADF, we endorse the proposal to review the determined ranges annually. We think this is a sensible opportunity for all parties to review the operation of the system, as the ADF establishes expertise in this type of salary administration and as senior officers gain in their experience of it.

The date of effect for our determination will be 1 July 2008, as sought by the parties. The parties should lodge a draft with the Tribunal's Secretariat within 14 days.