



**Australian Government**  
**Defence Force Remuneration Tribunal**

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## DECISION

*Defence Act 1903*  
s.58H—Functions and powers of Tribunal

### **AUSTRALIAN DEFENCE FORCE: ROTARY WING AVIATION OFFICERS**

(Matter 6 of 2018)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 15 MAY 2019

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] This decision arises from a listing application<sup>1</sup> made by the Australian Defence Force (ADF) under section 58H of the *Defence Act 1903* (the Act) in regard to a proposed salary structure to remunerate Navy and Army rotary wing aviation officers.

[2] In support of this matter the Tribunal participated in an inspection of the Army Aviation Training Centre at Oakey and the 16<sup>th</sup> Aviation Brigade in Townsville (with Navy participation) from 3-5 July 2018; and a second Navy demonstration was provided during a visit to HMAS *Canberra* on 24 October 2018. A formal conference was held on 4 December 2018 and a supplementary conference held on 28 March 2019.

[3] The hearing in this matter was held on 4 April 2019 when Mr J. Phillips SC appeared on behalf of the ADF and Ms A. Sullivan for the Commonwealth. Commodore C. Smallhorn RAN (formerly Commander Fleet Air Arm) and Colonel J. Brown (formerly Commandant Army Aviation Training Centre) appeared as witnesses.

## Background

[4] The Tribunal last considered aviation officers in Matter 5 of 2016 - *Air Force: Officer Aviation Pay Structure (OAPS)*. In the hearing of that matter, the ADF indicated its intent to return to the Tribunal for separate consideration of Navy and Army rotary wing aviation officers. This was referenced in our decision issued on 7 March 2018.<sup>2</sup>

[5] Navy aviation officers are a workforce of 352 members from the Pilot and Aviation Warfare Officer (AvWO) employment categories, of which 213 comprise the trained force and 139 are under training. The capability is suffering from serious undermanning, particularly at the Lieutenant and Lieutenant Commander ranks with a 22 per cent shortage of Pilots and 24 per cent of AvWOs.

[6] The Army aviation officer workforce consists of 402 members including a trained force of 299 Pilots, 37 non-Pilots and up to 66 undergoing pilot training.

[7] Both Navy and Army aviation officer members are remunerated under one of three salary structures currently in place within the Officer Aviation Remuneration System (OARS):<sup>3</sup>

- a. Graded Officer Pay Structure (GOPS) – Legacy System;<sup>4</sup>
- b. GOPS – Competency system;<sup>5</sup> or
- c. Officer Aviation Specialist Structure (OASS).<sup>6</sup>

[8] In contrast, since 3 May 2018, Air Force aviation officer members have been remunerated under a 38-increment OAPS salary spine with three progression pathways referred to as Command, Specialist and Staff.

[9] In this decision we refer to the Navy and Army components of the matter separately when outlining the submissions and evidence before us, as well as in our considerations and conclusion.

## SUBMISSIONS

### ADF

[10] The ADF proposes new increment pathways set within the OAPS for Navy and Army aviation officers and to transfer each workforce by:

- a. establishing two pathways (Command and Specialist) for the Navy and Army rotary wing aviation officers:
  - For Navy: establishing two competency streams, Pilot and AvWO, within the Command and Specialist pathways using rank and increment ranges.
  - For Army: establishing a single competency stream, Pilot, within both the Command and Specialist pathways, again using rank and increment ranges.

- b. placing current rotary wing aviation officers into the OAPS without financial detriment<sup>7</sup> based on the officers' rate of salary the day before transfer:
  - For Navy: initial placement for all aviation officers into the OAPS will occur on a single transfer date.
  - For Army: initial placements for all aviation officers into the OAPS will be phased, with final members entering OAPS on closure of the GOPS Competency and Legacy systems; and
- c. establishing a suite of internal transfer protocols for both Navy and Army to transfer their Officer Aviation members between their Command and Specialist pathways.<sup>8</sup>

[11] The ADF submits that both Navy and Army “*understand that the current pay disparity within their own Service, and between the three Services, must be addressed to resolve current workforce issues. They acknowledge that while aviation is an ADF capability there are inherent similarities and differences between the Service aviation workforces. Therefore the Service Chiefs (Chief of Navy and Chief of Army) support a coherent ADF rotary wing structure informed by relativities with Air Force.*”<sup>9</sup>

[12] The ADF states that the current salary structures available to Navy and Army aviation officers have created “*tension between aviation officers remunerated lower than their peers, with the implication that the value each Service places on their aviation workforce is based on the date of their enlistment*” and that “*this pay disparity is having an effect on the Services' aviation workforce morale.*”<sup>10</sup>

[13] The ADF submits that the placement protocols set out in the submission are designed to recognise the “*significant increase*” in capability delivered by Navy and Army aviation workforces since the introduction of new platforms and technology and to increase technical mastery. In Navy in particular it also submits that the placements are designed to address serious undermanning issues.<sup>11</sup>

[14] The ADF states the proposal will cost \$2.0m over the next five years for Navy, and \$2.4m for Army in the first year with \$1.2m per annum for each year thereafter to five years. Both Services submit that the positive impact on retention will result in overall savings.

## Navy

[15] **Remuneration.** The vast majority of Navy's trained force of aviation officers are remunerated under GOPS Legacy (81 per cent) with 11 per cent under GOPS Competency and 8 per cent under OASS. Pay grade placements under GOPS Legacy are higher than placements in the Competency system and, coupled with members in the Legacy system being able to advance through GOPS placements faster than those in the Competency system, this effectively results in Legacy officers being paid more for doing the same work.

[16] **Workforce issues.** The ADF submit that Navy's current separation rates are unable to sustain the present manning situation. It submits this is exacerbated by two forthcoming factors; the increasing numbers of members in the Competency stream whose Initial Period of Service

(IMPS) or Return of Service Obligation (ROSO) will soon expire, and the development of 822X Squadron operating unmanned aerial systems.

[17] **Roles.** A Navy Pilot's primary role is to be the aircraft captain of a Navy rotary wing aircraft across the spectrum of maritime aviation operations. The AvWO's prime role is as the tactical coordinator and mission commander.

## Army

[18] **Remuneration.** There are approximately 197 Army aviation officers remunerated under GOPS Legacy, 186 under GOPS Competency and 38 non-Pilots remunerated in GOPS as a General Service Officer. Army submit that the pay disparity between those officers on GOPS Legacy and GOPS Competency is "*enough to trigger those under the Competency system to separate, and their increasing number over the next few years poses a very real threat to all the efforts expended by Army so far.*"<sup>12</sup> Army note that the dissatisfaction over the pay disparity increases the likelihood that pilots will also seek separation following the expiration of their IMPS/ROSO.

[19] **Workforce issues.** Army aviation officer separation rates are presently consistent with the broader Army rates. Army submits it commenced an Aviation Officer Employment Category Review in April 2015 which identified capability complexity, organisation and aviation command as key factors for the workforce.

[20] **Roles.** Army aviation officers are members of the combined arms team. In addition to technical mastery they must achieve combat mastery and are required to provide accurate advice to ground commanders to contribute to arms planning and operations. The Army non-pilot category is being phased out as a result of the Review outcomes.

## COMMONWEALTH

[21] The Commonwealth wrote to the Tribunal following receipt of the ADF submission seeking a conference on 4 April 2019 before progression of the matter to a rescheduled hearing date. It raised three immediate concerns in regard to the proposal:

- a. that salary increments proposed for AvWOs do not take market forces into account;
- b. matching salary increments for AvWOs with pilots is likely to result in future cases being brought forward based on other existing AvWO relativities; and
- c. the potential expansion of the OAPS pay spine to other categories.<sup>13</sup>

[22] The ADF replied to this letter in writing on 25 March 2019.<sup>14</sup> In order to avoid delays the Tribunal conducted a conference with the parties on 28 March 2019 under s.58KC of the Act.

[23] Subsequently, the Commonwealth made its submission supporting the "*intent of the proposal in part, as it pertains to Navy and Army rotary wing pilots, but not to Navy AvWOs.*"<sup>15</sup>

- [24] The Commonwealth stated it would be willing to support the proposal should:
- a. the ADF present an evidence basis for Navy AvWOs requiring a similar retention component to pay as Pilots; and
  - b. the evidence not support a similar retention component, reconsider the Navy AvWO placements, which might, for example, be supplemented with an adjustable allowance to test for appropriate pay placements for this workforce.<sup>16</sup>

[25] In evidence in the hearing the Commonwealth stated it is also “*trying to protect the integrity of a structure that could form the basis of further departures from GOPS*” and that “*a key concern is where this case could set a precedent for historical relativity or pre-existing relativity forming the basis for access to flexible structures that provide opportunity to pay more.*”<sup>17</sup>

## WITNESS EVIDENCE

### **Commodore (CDRE) C J Smallhorn RAN, Director General Air and Land Combat Analysis (formerly Commander Fleet Air Arm)**

[26] CDRE Smallhorn had briefed the Tribunal in detail on a number of occasions in his former role as this matter developed. His evidence in the hearing outlined the options considered by Navy and stated “*there were numerous ways in which we looked at could we modify the GOPS competency system to achieve the objectives to mitigate those various inequalities and differences*”. In summary, “*we were unable to make the GOPS competency system meet the needs, those needs being the removal of the inequalities and differences GOPS competency introduced.*”<sup>18</sup>

[27] We note his extensive evidence as to the symbiotic relationship between a pilot and AvWO and the evidence that “*both officers are dedicated warfare officers. One is an expert in tactical employment and scene of action command and mission command, one is an expert in aircraft, in flying the aircraft, aircraft safety and aircraft captancy. But those roles and backups between each other shift continuously through the mission.*”<sup>19</sup>

[28] CDRE Smallhorn expanded upon the issue of industry attracting aviation officers away from Navy and gave evidence that “*experienced aviators are attracted to multiple industries in aviation and that in the last 12 months alone we’ve lost six of our AvWOs. We only have 89 trained so six, you can imagine, is a significant loss. Put into dollar terms that would be \$21.2 million of training that left.*”<sup>20</sup>

[29] We particularly note CDRE Smallhorn’s written evidence that:

*“The submission describes a number of challenges facing Navy’s aviation workforce, most of which have their origin in Navy’s policies and practices for the past few decades, which are negatively affecting the retention behaviour of this workforce. The submission also goes into some detail as to how Navy has been trying to remediate those challenges. Navy’s proposition to this Tribunal is not one that suggests increased remuneration as being a total solution to those challenges. Rather Navy’s proposition is that resolving the pay disparity previously described, forms a key underpinning and cooperative element that*

*interrelates with all the changes Navy has already made to improve the Fleet Air Arm, and aiming to avoid remuneration as a basis or incentive for separation from the Navy while it continues to address its workforce shortfalls.*<sup>21</sup>

**Colonel (COL) J Brown, Director Battlefield Aviation Program (previously Commandant Army Aviation Training Centre)**

[30] COL Brown has also extensively briefed the Tribunal on a number of occasions in his former role, and in particular, during the inspection at the Army Aviation Training Centre in July 2018. In his affidavit COL Brown detailed that the *“proposition which Army has set out was not the only option we considered for this workforce. Ten options were considered (seven options for the employment specifications and three options for the remunerative outcomes).*”<sup>22</sup>

[31] We note COL Brown’s evidence in the hearing that Army *“do not have the same issue with retention as Navy and that they couldn’t say they are addressing a retention problem right now because the figures don’t indicate that, but that Army tends to lose its aviators just at the point where they are really ready to give back solid operational capability, and if we lose it then we will always be scrabbling to find suitable senior aviators.*”<sup>23</sup>

[32] To expand on that point, in an affidavit COL Brown explained that in 2007 Army aviators were placed under GOPS Legacy which allowed for increment advancement based on time *“so we had the opportunity for mastery, for experience based on years. When the ADF moved to the GOPS Competency system in 2009 recognition of mastery through time-based remuneration was set aside; one was paid more if they were promoted. It incentivised everyone to get promoted – in other words to abandon the aviation sphere as quickly as they could.”* COL Brown further explained *“the other thing that we did in 2009, because we knew retention was going to be a problem, was to change our ROSO from six years under Legacy to 10.5 years under Competency. Now 2019 is 2009 plus 10 years. So the first tranche of a small number – it’s four or five people – will come off their ROSO this year having experienced 10 years of earning less than their Legacy compatriots who joined, in one case, literally one day prior to them. They have the same experience and the same level of qualification, but less pay. My best guess is that of every 10 coming to the end of their ROSO, Army may lose more than half of them. If more than that leave over the next two or three years it will be a disaster.*”<sup>24</sup>

**CONSIDERATION**

[33] Our initial consideration centred on cross-reference to Matter 5 of 2016 – *Air Force: Officer Aviation Pay Structure* and the concerns we raised when that matter was *“presented as an Air Force only case without detailed input by Navy and Army”*. We accept the evidence that at the time Navy and Army were in *“different stages of assessing the application to their workforces.*”<sup>25</sup>

[34] Our published decision reflected that advice and noted that *“Navy and Army remain supportive of Air Force’s approach and accept that they may wish to bring forward related matters in the future in order to address the remuneration of their respective aviation workforces”*. We stated then that the Air Force matter was *“not to be used as a binding precedent and that each case was to stand alone.*”<sup>26</sup>

[35] We also referred back to the Commonwealth concerns raised in Matter 5 of 2016 with regard to relativity to other ADF workforces and potential flow-on or precedent effects. We noted then, and maintain that, *“it is the responsibility of the ADF to manage the expectations of its workforce.”*<sup>27</sup>

[36] We considered the evidence that Navy and Army aviation capability has undergone significant transformation since 2009 and that *“in addition to continual high-tempo operational deployments, every fundamental input to capability has changed.”*<sup>28</sup> We gave consideration to whether this exponential increase in capability is adequately recognised in the current remuneration structure and consider that it is not.

[37] We considered the remuneration options presented in the ADF submission<sup>29</sup> and accept that the scope of alternative options was limited to the GOPS, OASS and OAPS. We agree that it is not beneficial to create another salary structure nor is it considered practical or in-scope to redevelop the GOPS pay grades to provide for rotary wing aviation officers. We considered the concerns of the Commonwealth that the OAPS structure could potentially be expanded to other categories however we do not share those concerns noting that each matter before us is considered solely on its merits and application within the appropriate salary structures.

[38] We reviewed the cost implications closely and considered that the costs of implementing this structure are relative when considered against the high training costs of each aviation officer. We note the evidence that, for example in the case of Navy, *“every one of those individuals, if it is to be a pilot, ...will cost the Commonwealth and the taxpayer \$7.8m and every one that we put through for an AvWO will cost the Australian taxpayer \$5.2m.”*<sup>30</sup>

## Navy

[39] We considered that the point at which Navy aviation officers reach their IMPS/ROSO expiry tends to coincide with a peak in their experience, technical mastery, delivery of combat capability and contribution to Naval aviation generally. For pilots in particular it also coincides with a point at which they become attractive to industry.

[40] We gave considerable attention to the Commonwealth concerns about the application to AvWOs. We note the evidence of CDRE Smallhorn that remunerative parity has always existed between the two roles and that the *“aviation warfare officer is critical to the warfare outcome and the safety and the conduct of the flight.”*<sup>31</sup>

[41] We reviewed the separation rates and the loss of six personnel out of a trained force of 89 being *“in the order of 7.5 percent of the workforce in one year. The design separation rate of that workforce is 6 per cent. That over a three-year period it’s matched the design of 6 per cent. Over the past three years for pilots it has been 8.5 per cent against a design of 6.5 per cent.”*<sup>32</sup>

[42] We note in addition that since the introduction of GOPS competency there now exists a substantial differential between a Navy Maritime Warfare Officer (MWO) and an aviation officer purely as a result of the *“training system and the pay grade progression”* whereby MWOs move through the pay grades more quickly resulting in inequality *“in the order of \$160,000.”*<sup>33</sup> We considered that this has created an inequity that is particularly evident with

the interoperability of ships flight deployments and MWOs serving at sea and requires remediation to address workforce parity.

## **Army**

[43] We considered the evidence of COL Brown that “*the work my team has done over the past three and half years in opening and completing a root and branch Employment Category Review, in strengthening the core of the workforce by simplifying it and increasing ROSO, by providing a pathway for General Service Officer pilots to continue flying and accruing experience as specialist aviators, all of this work has been compatible with an OAPS pay case. That is to say, almost everything we have done has been designed to improve the attraction and retention of the Army aviation officer workforce in order to retain capability outcomes.*”<sup>34</sup>

## **CONCLUSION**

[44] We accept that the relatively small numbers of trained aviation officers across both Navy and Army makes for volatility; just a handful of resignations has a major impact and the lack of system resilience can have an immediate effect on capability. We note the work done by the ADF to set out the challenges across its respective aviation officer workforces; the strategies and remediation it has already undertaken to address shortcomings; and the effort expended to explain the remunerative outcomes the ADF believe best supports the retention initiatives the Services have each implemented separately.

## **Navy**

[45] We accept that Navy is currently experiencing a pilot workforce shortfall in the order of 22 per cent and 24 per cent for AvWOs. Acknowledging the pay disparity between GOPS Legacy and Competency cohorts, and the Competency ROSOs beginning to expire, we agree that Navy can adequately predict its separation rates will increase if the situation is not remediated “*immediately.*”<sup>35</sup>

[46] We strongly agree with the ADF that the AvWO and pilot roles and responsibilities are unique in ADF aviation. We agree that they are interdependent and provide aviation capability outputs jointly and often interchangeably. We further agree with the ADF that “*in terms of historical principle and in terms of morale between two intimate workforces it (i.e differing pay rates) is simply unwarranted.*”<sup>36</sup> We conclude that to remunerate them at differing grades or under differing provisions, as proposed by the Commonwealth, would be of significant detriment.

[47] We observe the cross-reference of this matter to Matter 2 of 2019 – *Navy: Retention incentive payment*<sup>37</sup> and accept that some of the Navy aviation element will be treated separately under that initiative.<sup>38</sup>

## **Army**

[48] We agreed with COL Brown that without an appropriate remunerative outcome the initiatives of the Employment Category Review conducted by Army would not achieve the desired outcomes of attraction and retention.

## SUMMARY

[49] We agree with the proposed report back timeframes and seek a report back from the ADF at the two, five and eight year marks post implementation being July 2021, 2024 and 2027 respectively.

[50] Determination 3 of 2019 will shortly be issued to give effect to this decision with effect from 1 July 2019.

MS I. ASBURY, PRESIDENT  
MR A. MORRIS, MEMBER  
RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

### *Appearances:*

*Mr J. Phillips SC and Mr P. Blady* for the ADF

*Ms A. Sullivan with Mr J. O'Reilly* for the Commonwealth

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<sup>1</sup> DMR/OUT/2018/019 Listing Application – Rotary Wing Aviation Officers dated 15 June 2018.

<sup>2</sup> <https://www.dfrt.gov.au/sites/default/files/Decision-OAPS.pdf> paragraph 50.

<sup>3</sup> <https://www.dfrt.gov.au/sites/default/files/OARS-Reasons-for-Decision-16-Oct-09.pdf>

<sup>4</sup> The legacy system refers to the pay system in place to accommodate eligible aircrew who were not obliged to transfer to the Officer Aviation Remuneration Structure in 2009.

<sup>5</sup> The competency stream is the intended default position within OARS.

<sup>6</sup> Established independently of GOPS.

<sup>7</sup> These members will be transferred into OAPS in accordance with their years of experience at rank in the relevant pathway. In that case, moving to an OAPS increment that is equal to or next above their current rate of salary will not apply; that member may suffer financial detriment.

<sup>8</sup> ADF submission (ADF2) Matter 6 of 2018 – Rotary Wing Aviation Officers undated page 16 paragraph 2.1.

<sup>9</sup> ADF 2 page 15 paragraph 1.15.

<sup>10</sup> ADF 2 page 14 paragraph 1.9.

<sup>11</sup> ADF page 16 paragraphs 2.2 and 2.3.

<sup>12</sup> ADF2 page 101 paragraph 6.134.

<sup>13</sup> Commonwealth letter *Rotary Wing aviation officers – DFRT hearing 4 April 2019* dated 22 March 2019.

<sup>14</sup> DMR/OUT/2019/05 *Commonwealth request regarding Matter 6 of 2018, Rotary Wing aviation officers* dated 25 March 2019.

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- <sup>15</sup> Commonwealth submission (CWLTH 1) Matter 6 of 2018 – *ADF Rotary Wing Aviation Officers* dated 1 April 2019 page 14 paragraph 107.
- <sup>16</sup> CWLTH 1 page 14 paragraph 108.
- <sup>17</sup> Transcript of 4 April 2019 page 46 lines 42-45.
- <sup>18</sup> Transcript page 23 line 43 – page 24 line 27.
- <sup>19</sup> Transcript page 30 lines 28-33.
- <sup>20</sup> Transcript page 32 line 42 – page 33 line 1.
- <sup>21</sup> Affidavit of Commodore C J Smallhorn (ADF4) dated 2 April 2019 page 14 paragraph 55.
- <sup>22</sup> Affidavit of Colonel J B Brown (ADF 3) page 18 paragraph 76.
- <sup>23</sup> Transcript page 13 lines 32 – 40.
- <sup>24</sup> ADF 3 dated 2 April 2019 page 17 paragraphs 69 – 75.
- <sup>25</sup> <https://www.dfrt.gov.au/sites/default/files/Decision-OAPS.pdf> paragraph 37b.
- <sup>26</sup> <https://www.dfrt.gov.au/sites/default/files/Decision-OAPS.pdf> paragraph 50.
- <sup>27</sup> <https://www.dfrt.gov.au/sites/default/files/Decision-OAPS.pdf> paragraph 37c.
- <sup>28</sup> ADF 2 page 70 paragraph 6.1.
- <sup>29</sup> ADF 2 Part 7 page 102.
- <sup>30</sup> Transcript page 27 lines 9 -12.
- <sup>31</sup> Transcript page 28 lines 3 -5.
- <sup>32</sup> Transcript page 33 lines 38 – 43.
- <sup>33</sup> Transcript page 23 lines 29 – 34.
- <sup>34</sup> ADF3 page 19 paragraph 78.
- <sup>35</sup> ADF 2 page 57 paragraph 4.179.
- <sup>36</sup> Transcript page 48 line 44.
- <sup>37</sup> [https://www.dfrt.gov.au/sites/default/files/decision\\_-\\_navy\\_retention\\_incentive\\_payment\\_0.pdf](https://www.dfrt.gov.au/sites/default/files/decision_-_navy_retention_incentive_payment_0.pdf)
- <sup>38</sup> An aviation officer who had an initial minimum period of service associated with entry at the Australian Defence Force Academy is eligible for the 12-year retention incentive payment at their 15-year accrual point to align with the 12-year payment to their direct entry counterparts.