



Australian Government
Defence Force Remuneration Tribunal

DECISION

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

ROYAL AUSTRALIAN NAVY: GAP YEAR OFFICERS (Matter 14 of 2018)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 11 JANUARY 2019

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] This decision arises from a listing application¹ made by the Australian Defence Force (ADF) under section 58H of the *Defence Act 1903* in regard to the initial Navy Gap Year Officer program scheduled to commence on 25 January 2019.

Background

[2] In 2016, the ADF Gap Year program was re-introduced as part of the Government's *Policy for a Stronger Defence*.² The program is intended to “give school leavers the opportunity to experience Defence Force life without their having to make a longer commitment. It gives an experience of Service life and highlights the importance of Defence issues to young Australians who may not otherwise pursue an ADF career.”³

[3] Gap Year participants enter into a 12-month agreement with the ADF that either party can terminate. If they wish to become members of the Permanent Forces, participants must transfer to an established method of entry; this is not guaranteed by completing a Gap Year program.

[4] Although Gap Year sailors (Other Ranks) have been recruited and enlisted into the Navy for some time, Gap Year officers are new to the scheme. Army presently conduct Gap Year programs for other ranks and officers; Air Force have conducted both in the past, however only conduct Gap Year other rank placements at present.

Submissions

[5] The ADF submits that Navy has established a one-year Gap Year Officer experiential program. This program will have “*participants undertaking a Navy familiarisation tour of bases together with sea and shore-based work experience*”. It includes an abridged version of the New Entry Officers Course (9 weeks of 22) and is “*primarily a general course of common military skills applicable to both officers and sailors*”. Navy submits that the initial intake will consist of 25 people.⁴

[6] The submission seeks an interim salary placement and states Navy has considered two options:

- a. using the rate of salary specified for ‘recruit basic training’ at \$38 049 *per annum*; or
- b. the rate of salary specified for a ‘member undergoing officer training and not undertaking a degree course, member of the Navy, without a degree, first year’ at \$44 286 *per annum*.⁵

[7] Navy proposes that the interim rate of salary for the initial cohort of Gap Year Officers be determined at \$38 049 *per annum* based on the similar requirements, nature of training undertaken and outcomes associated with setting the recruit training pay placement. Navy further states it intends to bring “*a full submission on this matter before the Tribunal in early 2019 seeking a more enduring salary placement for this class of people.*”⁶

[8] The Commonwealth opposes the ADF position and recommends the Tribunal determine the interim salary for this cohort to be placed at \$44 286 *per annum*. The Commonwealth raises a number of reasons why it considers the proposed salary rate problematic and proposes the higher rate including:

- a. the rate of \$38 049 was not intended for officers and has been set for other ranks recruit training;
- b. officer participants have:
 - i. a higher standard of entry;
 - ii. complete a component of an officer course;
 - iii. carry the rank of Midshipman;
 - iv. undertake work experience with the intent of orienting them to future roles as officers; and
- c. the program, as advertised, states participants will experience Naval officer training and lifestyle with insights into officer job roles.

Consideration

[9] We are concerned that the ADF's submission was not filed in time for full consideration of an enduring pay placement for the initial cohort and that an interim salary placement has been required. We have also been required to consider the matter urgently because offers were made to the first cohort before the submission was filed. This situation is not desirable.

[10] Navy submits that the primary consideration was to choose the rate most aligned with what the Gap Year Officers would be 'doing' and consider a Gap Year Officer to be participating in activities similar to initial recruit training. We have significant concerns with the structure of Navy's intended Gap Year Officer program. As outlined in the ADF submission, the year will consist of a specially tailored initial training syllabus followed by experiential service in ships and shore establishments. The submission specifically asserts that, "*Navy Gap Year Officers will not have leadership and trade qualifications at the conclusion of their experiential program*".⁷ This differs from that of the other ADF Gap Year programs, all of which give recognition of prior learning (RPL) for at least basic entry training, whether officer or other rank. We are uncertain whether this represents a fair workplace arrangement for either the Navy, the individuals participating in the program or officers who have entered under other arrangements.

[11] We do not understand the logic behind this approach, particularly given Navy's standard initial officer training course is of six months' duration followed by six months of experiential 'fleet time' for many specialisations. Given the nature of seagoing service in particular, we are concerned that the statement that the Navy Gap Year Officers '*will not exercise any authority or hold any accountabilities*'⁸ does not fully address the likely demands on them nor recognise that their appointment as Midshipmen gives them a military rank which arguably has legal status.

[12] We note that the Commonwealth has concerns over the lack of recognition of the higher entry standards for officers than other ranks, as well as the more demanding training programs that are part of officer training. As the Commonwealth observes, the lack of differential between their pay rates on entry as well as the subsequent pay increases available to Gap Year Other Ranks but not to the Navy Gap Year Officers is '*counterintuitive*.'⁹

[13] On the other hand, we observe that there may be tensions over the differential between the Gap Year Officers and the Navy Officer Year One (NOYO) program entrants who will train and serve alongside them. We consider these cannot readily be dismissed by mention of the benefits of the degree gained by NOYOs during their ADFA time or the claim to "*other conditions of service*."¹⁰ Navy may therefore also need to consider modifying the first-year rate for these NOYO Midshipmen to recognise the situation that has developed.

[14] We agree with the Commonwealth that without immediate determination of a salary placement for this cohort, the 25 participants are at risk of adverse consequences which could include transfer to the Gap Year Other Ranks program (which is not the program advertised or applied for); offers being rescinded at very short notice; delayed commencement of the program at very short notice or; delayed payment of salary.¹¹

[15] We gave consideration to officer Gap Year programs conducted by both Army and Air Force and deliberated on the following comparators:

Gap Year Program (Officers)	Navy	Army	Air Force (conducted in 2010 only)
Salary	\$38 049	\$44 286 - \$62 885 ¹²	\$44 286 (adjusted to current rates)
Qualifications	No qualification. No RPL.	Qualified as Reserve Officer. RPL.	No formal qualification. RPL
Rank	Midshipman	Lieutenant (on completion)	Officer Cadet
Program	9 weeks basic training; tour of establishments; experiential sea and shore-based.	5 weeks basic training; 5 months officer training, 6 months posted to Regular Army unit on the job training.	11 weeks basic training; officer training; work placements.

Conclusion

[16] We have serious concerns about the way that this matter has been handled within the ADF. The lack of notice makes it very difficult for the Tribunal to meet its responsibilities and we do not accept that there was justification for the delay in submission in this case.

[17] Given the timeframe and in view of the fact that the pay level involved has already been made clear to the new entrants, who accepted their offer on that basis, we determine that the rate for Navy Gap Year Officers should be set at the existing rate for Navy Gap Year Other Rank Recruits at \$38 049 *per annum*.

[18] This determination will apply only to the cohort of Navy Gap Year Officers entering on 25 January 2019. It should not be assumed that we will endorse the arrangement for the second or any succeeding cohort.

[19] We require the ADF to return to us with comprehensive justification of its approach to the program by 1 March 2019 and have decided to list this matter for consideration in conference on **8 March 2019**. Through this process we intend to determine a long-term solution to be applied to the second cohort on their commencement in July 2019.

[20] At that time the ADF is to include detailed explanation of the transition options giving regard to the application of RPL that would apply to a Gap Year officer who may choose to pursue a career with Navy under each of the following pathways:

- a. transfer to the Other Ranks as a sailor;
- b. continue as a Direct Entry Officer and complete the remaining officer and primary qualifications;
- c. continue as an ADFA student; or

d. continue as an undergraduate student.

[21] We determine that the Navy Gap Year Officer entrants to commence on 25 January 2019 be remunerated at the rate at item 1 of Schedule B.13 of DFRT Determination 2 of 2017 – *Salaries*. The determination applies to this cohort only and it is not to be assumed that it will be applied to any subsequent cohort.

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

¹DMR/OUT/2018/48 *Listing Application – Navy Gap Year Officers – interim salary placement* dated 13 December 2018.

²The program had previously been conducted by the ADF from 2007-2010.

³<http://lpaweb-static.s3.amazonaws.com/13-09-02%20The%20Coalition%27s%20policy%20document%20for%20Stronger%20Defence.pdf>

⁴DMR/OUT/2018/49 *Matter 14 of 2018 – Navy Gap Year Officers – interim salary placement* dated 17 December 2018.

⁵http://www.defence.gov.au/PayAndConditions/ADF/Determinations/Consolidation/58H/dfrt_2017_2_schedules.pdf. Additionally Gap Year participants receive Trainee Allowance of \$10 703 *per annum*

⁶ADF letter of 17 December paragraph 18.

⁷ibid paragraph 17.

⁸ibid paragraph 7.

⁹Commonwealth submission *Matter 14 of 2018 Navy: Gap Year Officers* dated 3 January 2019 page 6 paragraph 55.

¹⁰ADF letter of 17 December paragraph 15.

¹¹Commonwealth submission page 5 paragraph 42.

¹²Salary range is dependent on qualifications at commencement (i.e. a degree) and concludes at promotion to Lieutenant.