

ADF LEGAL OFFICERS' SPECIALIST OFFICER CAREER STRUCTURE (LOSOCS) OUTLINE¹

INTRODUCTION

1. To be a Legal Officer in the Australian Defence Force (ADF) one must:
 - a. be appointed as an officer in one of the three single Services;
 - b. be admitted as a lawyer, legal practitioner, barrister, solicitor or barrister and solicitor of the High Court or the Supreme Court of an Australian State or Territory; and
 - c. be a member of the Legal Officers' Specialist Officer Career Structure (LOSOCS) or
 - d. make an application to the Legal Officer Career and Professional Development Committee (LO CPDC) to be recognised as a Legal Officer for a period of up to three (3) years and that application is approved by the LO CPDC.

2. Legal Officers in the ADF are subject to the technical control and professional administrative oversight of the Director General ADF Legal Services (DGADFLS). This technical control and professional administrative oversight by the DGADFLS will be exercised with advice from the head of Corps/Category (HOC) and in consultation with Head Defence Legal (HDL)².

Background

3. The ADF sought the establishment of the LOSOCS to improve retention rates of Legal Officers by ensuring recognition of specialist skills and remuneration which was consistent with market value. In 2000 the Defence Force Remuneration Tribunal (DFRT) approved the introduction of the LOSOCS from 16 Mar 00 and the formation of the Legal Officer Career and Professional Development Committee (LO CPDC). For Legal Officers serving in the ADF as at 16 Mar 00 transfer to the LOSOCS was optional for those in the permanent force³ and automatic for those in the reserve forces.

4. Since that time there have been various decisions of the DFRT which update and develop the original LOSOCS. DFRT decisions relevant to the LOSOCS are on the Defence Legal web sites, at either the DFRT Decisions & Determinations link of the

¹ This Outline was revised in order to be consistent with the draft DI(G) - *Management of the Specialist Officer Career Structure (SOCS)*. The outline may need further revision after this DI(G) is finalised.

² On 26 May 09 the Chiefs of Staff Committee (COSC) agreed to implement recommendation 30 of the *Report of the Independent Review on the Health of the Reformed Military Justice System* (the Street Fisher Report). Recommendation 30 states: *Professional Rules for ADF legal officers be introduced with technical control and professional administrative oversight by the Director General ADF Legal Services on advice from head of Corps/Category and in consultation with Head Defence Legal.*

³ Only one legal officer in the permanent force has chosen not to transfer to the LOSOCS.

Career Management page of the intranet site
 (http://intranet.defence.gov.au/dsg/sites/DLD/) or the internet site
<http://www.defence.gov.au/legal/cm.html>.

5. The creation of the LOSOCS saw the introduction of legal competency levels (CL, formerly LL) which range from CL1 to CL5. Legal Officers serving in the ADF as at 16 Mar 00 were transferred to the LOSOCS at a specific CL by their Service career/personnel manager (CM). The CL on transfer was based on a recommendation made by the LO CPDC for the officer to be deemed at a particular CL taking into account the Legal Officer's rank, experience and qualifications.

6. Linked with advancement from CL1 to CL5 are the training, Service and promotion requirements associated with being an officer in one of the single Services. Further details are available from the relevant single Service CM.

Responsibilities

7. In addition to their normal responsibilities as a military officer, each individual Legal Officer is responsible for:

- a. nominating for and satisfactorily completing appropriate courses, duties and tasks to satisfy the various LOSOCS advancement criteria; and
- b. making timely LOSOCS advancement applications to the LO CPDC.

Content

8. This outline covers:

- a. Becoming a member of the LOSOCS – Part A;
- b. Legal Competency Level advancement and Promotion in rank – Part B;
- c. Legal Training and Academic qualifications – Part C;
- d. The LO CPDC, including applications and reviews – Part D; and
- e. Out-of-category postings – Part E.

PART A – BECOMING A MEMBER OF THE LOSOCS

Avenues of Entry to LOSOCS

9. Only applicants who have been admitted as a lawyer, legal practitioner, barrister, solicitor or barrister and solicitor of the High Court or the Supreme Court of an Australian State or Territory (qualified applicants) and are, or have applied to be, appointed as an officer are eligible to be a member of the LOSOCS. For detail concerning appointment as a Legal Officer of one of the three single Services see the Legal Officer link in any of the three Services on the Defence web site <http://www.defencejobs.gov.au/search/?q=Legal+Officer>. Applicants may become qualified to be a member of the LOSOCS through a variety of avenues, not all of which are necessarily utilised by each of the Services. Opportunities to become a Legal Officer are dependent upon the needs of the Services. The avenues by which applicants may become eligible to be a member of the LOSOCS are:

- a. appointment as a Legal Officer in the ADF through the Undergraduate Scheme;
- b. appointment as a Legal Officer in the ADF by a qualified applicant with no previous military experience;
- c. appointment as a Legal Officer in the ADF by a qualified applicant with previous military experience through:
 - (1) re-appointment following resignation;
 - (2) inter-service transfer;
 - (3) appointment following service in the military forces of another country; or
- d. appointment as a Legal Officer in the ADF by a qualified applicant via intra-service transfer from another employment category (permanent or reserves) or commissioning (generally following Civil Schooling sponsorship).

10. Qualified applicants seeking to become a member of the LOSOCS must complete the appropriate form⁴ and lodge the request with the Secretary of the LO CPDC⁵. Where possible the request to become a member of the LOSOCS should be made concurrently with the entry, transfer or commissioning requirements of the single Service. The LO CPDC will consider the request to join the LOSOCS and make a recommendation to the appropriate Service CM.

⁴ These forms are on the Defence Legal web sites, at either the LOCPDC Forms and Meeting Dates link of the Career Management page of the intranet site (<http://intranet.defence.gov.au/dsg/DLD/>) or the internet site <http://www.defence.gov.au/legal/cm.html>.

⁵ For further guidance on applications to the LO CPDC see paragraphs 69-71.

Appointment and Transfer Conditions

11. **Appointment as a Legal Officer in the ADF through the Undergraduate Scheme.** Subject to the individual terms of appointment offered by each Service, successful undergraduate applicants are normally appointed in the rank of midshipman or officer cadet until successful completion of degree studies after which they will be promoted to the O1 rank⁶. Potential Legal Officers who have completed degree studies normally are required to complete a Graduate Diploma in Legal Practice or Articles to be admitted as a legal practitioner, barrister or solicitor. Once arrangements have been made to meet admission requirements, potential Legal Officers must request to join the LOSOCS in order for the LO CPDC to make a recommendation as to rank and seniority. This recommendation will be based on recognition of the member's prior experience as outlined in paragraphs 17 – 22. Upon admission and subject to approval by the CM delegate, the Legal Officer will be granted CL1 status and promoted to the O2 rank⁷.

12. **Appointment as a Legal Officer in the ADF by a qualified applicant with no previous military service.** Subject to the individual terms of appointment offered by CMs, where a lawyer seeks a direct entry appointment and is considered suitable for appointment as a Legal Officer by the LO CPDC and relevant CM, the applicant will be appointed either at the O2 rank and granted CL1 status or the O3 rank⁸ and granted CL1 or CL2 status (refer to paragraphs 17 - 19). During service as a CL1 Legal Officer the member will be required to undertake single Service Initial Officer Training (IOT), Legal Training Module (LTM) 1 and on the job experience. Legal Officers appointed at the O3 rank and granted CL2 status will also be required to undertake single Service IOT and LTM 1. Where a lawyer seeking a direct entry appointment or transfer as a Legal Officer in the reserve forces has specialised legal experience (such as a Judge, Queens Counsel, Senior Counsel, Professor of Law or criminal law prosecution expert) and is considered suitable for appointment or transfer as a Legal Officer by the LO CPDC and relevant CM, the applicant may be appointed directly at the O4 or O5 rank⁹ and granted CL4 status. The CL4 applicant will still be required to complete LTM 1 and some form of IOT as determined by the relevant CM delegate.

13. **Appointment as a Legal Officer in the ADF by a qualified applicant with previous military experience.** An officer or ex-officer of the permanent or reserve ADF who is qualified to become a member of the LOSOCS may seek transfer or re-appointment in the ADF and placement within the LOSOCS. Former Legal Officers in the ADF may be re-appointed at the same rank and CL as that held prior to resignation. Officers and former officers of the ADF, other than former Legal Officers, may be granted CL1 or CL2 status depending on prior experience (refer to paragraphs 17 – 22). During service as a CL1 Legal Officer the member will be required to undertake LTM 1 and on the job experience. Legal Officers granted CL2 status will also be required to undertake LTM 1. Suitably qualified applicants of foreign military forces may also seek appointment via single Service lateral recruitment programs. The suitability for appointment or transfer of such officers will be considered by the LO CPDC and a

⁶ The O1 rank is either Acting Sub Lieutenant, Second Lieutenant or Pilot Officer.

⁷ The O2 rank is either Sub Lieutenant, Lieutenant or Flying Officer.

⁸ The O3 rank is either Lieutenant, Captain or Flight Lieutenant.

⁹ The O4 rank is either Lieutenant Commander, Major or Squadron Leader and the O5 rank is either Commander, Lieutenant Colonel or Wing Commander.

recommendation made to the CM. Appointment or transfer is not a right and is subject to Service requirements.

14. Where a qualified applicant other than a former Legal Officer in the ADF has previous or current military experience, the LO CPDC may recommend that the officer is suitable for appointment or transfer at a lower rank than that currently held by the officer or held by the officer upon resignation. In most circumstances the maximum rank on re-appointment or transfer will be O3 rank. In exceptional circumstances an officer or former officer may be appointed or transferred in the O4 rank. Officers who seek transfer may obtain an 'in-principle' recommendation from the LO CPDC and CM regarding their rank, seniority and CL status prior to making a formal application to transfer.

15. **Appointment as a Legal Officer in the ADF by a qualified applicant via intra-service transfer and commissioning.** Officers who become eligible to become a Legal Officer may seek transfer to the Legal Officer specialisation or Corps in their parent Service. Such transfers may be effected between employment categories within the permanent force or between the permanent and reserve parts of the Service and applicants will need to comply with single Service transfer requirements. Enlisted members who are admitted may apply for appointment (commissioning as an officer) to become a Legal Officer. Again applicants will need to comply with single Service requirements. Qualified applicants who are considered suitable for transfer or appointment as a Legal Officer by the LO CPDC and relevant CM, will be granted CL1 or CL2 status depending on prior experience (refer to paragraphs 17 - 22). During service as a CL1 Legal Officer the member will be required to undertake LTM 1 and on the job experience. Applicants granted CL2 status will also be required to undertake LTM 1. Often intra-service transfer and commissioning actions are linked to the completion of service-sponsored study such as civil schooling (see below).

16. **Civil Schooling.** An ADF member may seek approval for civil schooling sponsorship under extant Civil Schooling policy procedures to undertake or complete a law degree and/or admission requirements in order to be eligible to become a Legal Officer. The suitability of such a member to receive civil schooling will be considered by the CM, however advice from the LO CPDC should be sought prior to granting approval.

Recognition and Credit for Prior Experience

17. Legal Officers or potential Legal Officers may have their prior legal, paralegal and/or military experience considered by the LO CPDC and CM when determining CL upon entry to the LOSOCS and, in the case of direct entry applicants, when determining rank, seniority in rank and salary increments.

18. For the purposes of this instruction, the following definitions apply:

- a. *Legal experience* means experience in legal matters as a person admitted as a legal practitioner, barrister or solicitor of the Federal Court of Australia or a Supreme Court of an Australian State or Territory; and

- b. *Paralegal experience* means experience in legal matters as a person not admitted to practice and includes experience as a legal clerk or articulated clerk.

19. **Credit Policy.** Where a Legal Officer or potential Legal Officer with prior legal, paralegal and/or military experience seeks recognition of such experience, the LO CPDC will consider the relevance of the experience to the performance of duties as a Legal Officer in the ADF. The LO CPDC may recommend the following levels of credit for CL advancement and, in the case of direct entry applicants, for rank, seniority in rank and salary increments:

- a. for prior Initial Officer Training – credit of 100%, up to a maximum of six months;
- b. for prior legal experience after admission – credit of 50%, up to a maximum of one year for CL advancement and, in the case of direct entry applicants, up to three years for seniority in rank purposes and six years for salary increments;
- c. for prior paralegal experience – credit of 25%, up to a maximum of one year for CL advancement and seniority in rank and salary increment, or, in the case where the prior paralegal experience was gained whilst a member of the permanent force – credit of 25%, up to a maximum of 18 months for seniority in rank and salary increment; and/or
- d. for prior military service not otherwise considered – credit of up to 25%, decided on a case by case basis, up to a maximum of one year;

provided that the maximum credit for CL advancement is one year, the maximum credit for seniority in rank purposes is three years and for salary increments is six years. Where the experience is part-time, the LO CPDC will consider the full-time equivalent of the part-time experience.

20. In accordance with sub-paragraph 19.d., the LO CPDC may consider prior military service not otherwise considered and grant credit up to a maximum of 25% where the LO CPDC is satisfied that the previous military service will enable the Legal Officer to achieve a demonstrated skill standard at a faster rate than Legal Officers who have no prior military service. The previous military service will be considered relevant if it gives the member a practical grasp or knowledge of command and personnel management in the military context and a greater awareness of the military environment, such as weapons systems, employment of weapons, the service discipline system, redresses of grievance, administrative inquiries, administrative sanctions and contractual matters.

21. In determining credit for prior military service in accordance with sub-paragraph 19.d. and paragraph 20, the LO CPDC will consider the following guidelines:

- a. 25% where the applicant gained relevant practical experience as an officer;
- b. 20% where the applicant gained relevant knowledge as an officer;

- c. 15% where the applicant gained relevant practical experience as a warrant officer / non-commissioned officer ;
- d. 10% where the applicant gained relevant knowledge as a warrant officer / non-commissioned officer.

22. Having determined the level of credit, the LO CPDC will provide the CM delegate with a detailed justification for the recommendation.

PART B - LEGAL COMPETENCY LEVEL ADVANCEMENT AND PROMOTION IN RANK

23. Legal Officers in the ADF seeking to advance in CL must comply with the advancement criteria of the LOSOCS.

24. Legal Officers may apply, in accordance with the procedures set out in paragraphs 69-71, to the LO CPDC for advancement in CL at any time. Legal Officers need to satisfy certain criteria to advance in CL, however, a Legal Officer may make an application for advancement in CL in anticipation of a subsequent promotion and/or posting to a higher CL position. In such circumstances the LO CPDC may recommend advancement subject to the required promotion and/or posting to a higher CL position and, if approved by the CM, the CL advancement will be effective when the Legal Officer is promoted and/or posted into a position at the higher CL.

Advancement in CL after 01 Jul 04

25. To advance in CL after 01 Jul 04, Legal Officers, apart from those seeking advancement under transitional arrangements, are required to satisfy the following criteria:

- a. for advancement to CL2 only, satisfactory completion of single Service IOT and 12 months effective service as a Legal Officer in the ADF (including service while completing IOT) taking into account credit granted for prior experience;
- b. for advancement to CL2, CL3 and CL4 only, completion of academic requirements (see Part C);
- c. the appropriate minimum rank¹⁰ or a higher rank;
- d. posting to a position that has the requisite CL or a higher CL;
- e. for advancement to CL3, CL4 and CL5 only, completion of the qualification requirements for one or more Legal Task Journals (see paragraphs 28 – 32);
- f. for advancement to CL4 and CL5 only, management of subordinates, particularly in relation to leadership, ethos and appraising the performance of subordinates (evidenced e.g. by Performance Appraisal Reports [PARs]);

¹⁰ For members of the Navy, Army and PAF it is substantive rank. For members of the RAAFSR it is substantive or temporary rank, whichever is the higher.

26. Table 1 summarises the criteria for advancement after 01 Jul 04.

Table 1- Criteria for Advancement in CL

To Advance to Legal Competency Level (CL)	Legal Task Journals		Academic Requirements	Manag't of subordinates	Minimum Rank
	Level	Areas of Law			
CL2	N/A	N/A	LTM 1	N/A	0-3
CL3	Competent	3	LTM 2	N/A	0-3
CL4	Advanced	2	LTM 3	Yes	0-4
Alternatively CL4	Advanced & Specialist	1	LTM 3	Yes	0-4
CL5	Specialist	2	N/A	Yes	0-5

27. CL4 may be achieved by satisfactory completion of Task Journals at the Advanced level in two of the three main areas of military law or, alternatively, by completing both the Advanced and Specialist level Task Journals in one area of law. If advanced to CL4 by the alternative means, subsequent advancement to CL5 requires satisfactory completion of the qualification requirements of both the Advanced and Specialist level Task Journals in another area of military law.

Legal Task Journals and Areas of Law

28. Legal Task Journals are effective from 01 Jul 04. Task Journals have been developed reflecting the tasks normally undertaken by ADF Legal Officers. The Task Journals are in the military law subject areas of Administrative Law, Discipline Law and Operations Law at Competent, Advanced and Specialist levels. These levels accurately reflect the required progression of Legal Officers throughout their career and provide an appropriate basis for matching each Legal Officer with ADF capability requirements.

29. Apart from those seeking advancement under transitional arrangements and those seeking advancement to CL2, ADF Legal Officers have to satisfy the Task Journal qualification requirements to advance in CL. These qualification requirements are set out in the Task Journal Assessment Policy on the Defence Legal web sites, at either the Legal Task Journal link of the Career Management page of the intranet site (<http://intranet.defence.gov.au/dsg/DLD/>) or the internet site <http://www.defence.gov.au/legal/cm.html>.

30. These qualification requirements have been modified for Legal Officers who were advanced to CL3 or CL4 under the LOSOCS arrangements prior to 01 Jul 04, or who advance to CL3 or CL4 after 01 Jul 04 under the transitional arrangements, and who are now required or choose to complete Legal Task Journal qualification requirements to advance further. Under these special arrangements the requirement set out in the Task Journal Assessment Policy is modified so that:

- a. those advanced to CL3 are required only to complete the qualification requirements for two Task Journals at the Advanced level (or one Task

Journal at the Advanced and Specialist levels) and are not required to complete the qualification requirements at the Competent level; and

- b. those advanced to CL4 are required only to complete the qualification requirements for two Task Journals at the Specialist level and are not required to complete the qualification requirements at the Competent and Advanced levels.

31. In accordance with the Task Journal Assessment Policy, assessment for Competent level is to be by self-assessment and assessment by an assessor of each completed task while assessment for Advanced and Specialist levels is to be by self-assessment, assessment by an assessor of each completed task and a further assessment of a limited number of such assessed tasks by a senior assessor. The LO CPDC will monitor the assessment process and results.

32. It is envisaged that it will take Legal Officers some years to complete the necessary Legal Task Journal assessment qualification requirements. The introduction of Legal Task Journals was not intended to substantially alter the time it would take a Legal Officer to advance under the LOSOCS arrangements prior to 01 Jul 04, namely four years to advance to CL3 and a further six years to advance to CL4.

Transitional Arrangements

33. Under transitional arrangements, Legal Officers who entered the LOSOCS before 01 Jul 04 may apply to the LO CPDC to advance from the CL held as at 30 Jun 04 to the next CL on satisfying the following criteria:

- a. for advancement to CL2 only, satisfactory completion of single Service IOT and 12 months effective service as a Legal Officer in the ADF (including service while completing IOT) taking into account credit granted for prior experience;
- b. for advancement to CL3 and CL4 only, experience as a Legal Officer in the ADF (taking account of credit granted for prior experience) of four years effective service for CL3 and ten years effective service for CL4;
- c. for advancement to CL2, CL3 and CL4 only, completion of academic requirements (see Part C);
- d. the appropriate minimum rank¹¹ or a higher rank;
- e. posting to a position that has the requisite CL or a higher CL;
- f. for advancement to CL3, CL4 and CL5 only, demonstration of legal skill in one or more subject areas of law;

¹¹ For members of the Navy, Army and PAF it is substantive rank. For members of the RAAF SR it is substantive or temporary rank, whichever is the higher.

- g. for advancement to CL5 only, management of subordinates, particularly in relation to leadership, ethos and appraising the performance of subordinates (evidenced e.g. by PARs).

34. Table 2 summarises the criteria for advancement under Transitional Arrangements.

Table 2- Criteria for Advancement in CL under Transitional Arrangements

To Advance to Legal Competency Level (CL)	Skill in Areas of Law	Total Experience as a LO	Academic Requirements	Manag't of subordinates	Minimum Rank
CL2	N/A	1 yr	LTM 1	N/A	0-3
CL3	1	4 yrs	LTM 2	N/A	0-3
CL4	2	10 yrs	LTM 3	N/A	0-4
CL5	3	N/A	N/A	Yes	0-5

35. To demonstrate legal skill in an area of law under the transitional arrangements, the Legal Officer must identify the area of military law in which the officer seeks to demonstrate skill and:

- a. detail in dot point form the legal tasks completed within the identified area of law and the number of times these tasks have been completed;
- b. provide at least two varying and substantial examples of written legal work which demonstrate legal skill in the identified area of law; and
- c. provide evidence of the Legal Officer's performance of legal duties in the identified area of law (e.g. PARs or a separate report from a supervising legal officer).

Military Judges

36. Legal Officers who are Judges of the Australian Military Court will not be assessed on the performance of their judicial functions.

Promotion in rank

37. Rank promotion will be in accordance with extant single Service policies. As distinct from CL advancement, LOSOCS officers are subject to single Service promotion requirements including time in rank, minimum periods of service, number of PARs and completion of general officer courses, to be eligible for rank promotion. The attainment of a particular legal competency level, linked with satisfactory military performance, may be a core selection criterion within promotion board deliberations.

38. As well as meeting single Service promotion requirements, to be eligible for selective promotion Legal Officers who are administered, advanced and paid within the LOSOCS need to have met the minimum CL requirements as follows:

- a. for promotion to O4, Legal Officers must be at least CL2;
- b. for promotion to O5, Legal Officers must be at least CL3;
- c. for promotion to O6, Legal Officers must be at least CL4: and
- d. for promotion to O7, Legal Officers must be at least CL5.

PART C - LEGAL TRAINING AND ACADEMIC QUALIFICATIONS

39. Legal Officers are required to undertake academic training in order to satisfy the criteria for advancement in CL. For the purposes of advancement in CL, completion of academic qualifications means satisfactory completion of the appropriate LTM 1, 2 or 3 course. LTM 1 is a one week residential course held at and conducted by the staff of the Military Law Centre (MLC) in the Sydney area. LTM 2 and LTM 3 are post-graduate tertiary education programs conducted by a university and administered by the MLC.

40. Legal Officers should undertake LTM 1 at the earliest possible opportunity and do not need to have completed IOT before undertaking LTM 1. Supervisors who seek to have Legal Officers who have not completed IOT attend LTM 1 should, after consultation with HOC, make a submission to the MLC.

41. LTM 2 requires the satisfactory completion of the following four subjects:

- a. Military Administrative Law;
- b. Military Discipline Law;
- c. Military Operations Law; and
- d. Advocacy for Military Lawyers.

Satisfactory completion of these subjects normally leads to the grant of a Graduate Diploma of Military Law.

41A. Where a Legal Officer has received recognition of prior learning (RPL) for one of the above subjects, that Legal Officer may apply to the CPDC for funding for an elective subject in order to qualify for the grant of a Graduate Diploma of Military Law.

42. LTM 3 requires the satisfactory completion of the following core subjects:

- a. Advanced Military Administrative Law;
- b. Advanced Military Discipline Law;
- c. Advanced Military Operations Law;

and, in the case of Legal Officers in the permanent force without an existing master of laws degree, LTM 3 requires the satisfactory completion of five elective subjects from a list of elective subjects approved by the LO CPDC.

43. Satisfactory completion of these eight subjects will lead to the grant of a Master of Military Law or, at the request of the member and approval by the university, a master of laws degree or other masters degree.

44. Legal Officers in the permanent force who hold a master of laws degree and all reserve Legal Officers are only required to undertake the three LTM 3 core subjects

listed at subparagraphs 42.a-c above. Those officers may seek LO CPDC approval to undertake one elective subject from the LO CPDC approved list. Satisfactory completion of these four subjects will lead to the grant of a Graduate Diploma of Advanced Military Law.

45. **Completion of a LTM Subject.** For the purposes of advancement in CL a Legal Officer will have completed a LTM subject on the day that the Legal Officer submits the completed final examination or paper for that subject, provided that examination or paper results in a pass in that subject.

46. **Breaches.** All integrity related breaches of training standards, such as plagiarism, are treated very seriously by the university and the ADF. Legal Officers are reminded that they remain ADF members when undertaking LTM subjects and any integrity related breaches of university standards may be subject to disciplinary action and/or military administrative action in addition to university action.

Recognition of Prior Learning

47. Prior learning is recognised within the LOSOCS under a process of recognition of prior learning (RPL) by the LO CPDC. LO CPDC Policy decisions relating to RPL are available on the Defence Legal web sites (LO CPDC Policy Decisions 242/04 and 84/08), at either the CPDC Policy Decisions link of the Career Management pages of the intranet site (<http://intranet.defence.gov.au/dsg/sites/DLD/>) or the internet site <http://www.defence.gov.au/legal/cm.html>.

48. In addition to these general RPL provisions, specific RPL arrangements applied to Legal Officers in the ADF as at 16 Mar 00, the date the LOSOCS was introduced. Legal Officers who were:

- a. deemed CL3 as at 16 Mar 00, are deemed to have RPL of LTM 2;
- b. deemed CL2 as at 16 Mar 00 and had completed the Legal Officers Initial/Basic Course prior to 16 Mar 00, are deemed to have RPL of LTM 2;
- c. deemed CL4 as at 16 Mar 00, are deemed to have RPL of LTM 3;
- d. deemed CL3 as at 16 Mar 00 and had completed the Legal Officers Advanced Course prior to 16 Mar 00, are deemed to have RPL of LTM 3;
- e. deemed CL3 as at 16 Mar 00, had been a Legal Officer for 10 years taking into account credit granted for prior experience and held the 04 rank for three (3) years, are deemed to have RPL of LTM 3.

Panelling Criteria for LTM Courses

49. DMLC is the Panelling Authority for all LTM courses. Authority for funding approval for Legal Officers seeking to undertake an elective subject in order to complete the Graduate Diploma in Advanced Military Law remains with DGADFLS (with LO CPDC advice).

50. DMLC does not guarantee placement on any LTM core or elective subject. Students will be panelled on courses in accordance with the panelling criteria outlined below. The panelling criteria are based upon the following principles:

- a. Funding available for legal training is not unlimited;
- b. Panelling of LTM courses should achieve equity between nominating Legal Officers;
- c. Legal Officers should be adequately prepared to attend LTM subjects as active participants;
- d. Legal Officers who have completed their Task Journals at the relevant level should not be delayed for progression through CL levels;
- e. Legal Officers identified for deployment should be given priority for LTM Operations Law subjects.

51. DGADFLS reserves the right, in exceptional circumstances, to direct the Panelling Authority in respect of panelling decisions. In this regard, DGADFLS may impose decisions on the Panelling Authority that do not comply with the following panelling criteria.

LTM Courses

52. The following panelling criteria apply generally:

- a. Only Legal Officers who are members of the LOSOCS or are recognised by the LO CPDC as a Legal Officer are eligible for empanelment on any LTM course.
 - (1) **Except** where an applicant is the subject of a CPDC decision recommending admission to the LOSOCS but where the admission to the LOSOCS is not yet effective, DGADFLS may approve empanelment on LTM 1 if there is a vacancy on the course.
- b. Unless a Legal Officer in the Standby reserve has a current undertaking for service under section 50 of the *Defence Act 1903* that officer is not eligible for empanelment on any LTM course.
- c. Reserve Legal Officers, while on continuous full-time service (CFTS), are entitled to the same funding and funding priority as Legal Officers in the permanent force.

LTM 1

53. The following panelling criteria apply to LTM 1:
- a. Permanent Legal Officers, including officers recognised by the LO CPDC as a Legal Officer will be given priority over Reserve Legal Officers for empanelment on LTM 1.
 - (1) This panelling criterion applies irrespective of CL (ie, a Permanent Legal Officer at CL1 will remain a priority over a Reserve Legal Officer at CL2).
 - b. Legal Officers who have completed initial officer training will be given priority over Legal Officers who have not completed initial officer training.

LTM 2

54. The following criteria apply to LTM 2:
- a. Before they become eligible for empanelment on LTM 2 subjects an officer recognised as a Legal Officer must have satisfactorily completed LTM 1 and Legal Officers must have satisfactorily completed LTM 1 and be CL2 IAW a LO CPDC decision specific to them.
 - (2) Legal Officers who are admitted to the LOSOCS at CL2 are still required to complete LTM 1.
 - b. From 1 Jan 09, Legal Officers will not be empanelled on LTM 2 subjects until they have completed those tasks at the competent level for that area of military law listed as designated pre-requisite tasks in **Annex A**.
 - c. Legal Officers are not eligible to undertake the Advocacy for Military Lawyers subject until the Military Discipline Law subject has been satisfactorily completed.
 - d. Eligible Legal Officers will be prioritised for empanelment on LTM 2 subjects in accordance with their relative seniority at CL2. Officers recognised as Legal Officers will be prioritised for empanelment on LTM 2 subjects in accordance with their relative seniority since completing LTM 1.
 - (1) **Except** Permanent Legal officers will be given priority over Reserve Legal Officers unless the Reserve Legal Officer holds seniority at CL2 of greater than twelve months more than the comparative Permanent Legal Officer.
 - (2) **Except** where a Legal Officer has been identified for deployment and completion of a LTM Operations Law subject is required for that Legal Officer.

- e. Legal Officers will not normally be panelled on more than two LTM 2 subjects in any one calendar year unless they have at least two years' seniority at CL2. Officers recognised as Legal Officers will not normally be panelled on more than two LTM 2 subjects in any one calendar year unless they have at least two years seniority since completing LTM 1.
 - (1) Discretion will be used when applying this criterion. Legal Officers who have completed the Task Journal for the relevant area of military law at the Competent Level should not be disadvantaged in the panelling process.
 - (2) **Except** where a Legal Officer has been identified for deployment and completion of a LTM Operations Law subject is required for that Legal Officer.

LTM 3

55. The following criteria apply to LTM 3:
- a. Legal Officers must have satisfactorily completed LTM 2 and be CL3 IAW a LO CPDC decision specific to them before they become eligible for empanelment on LTM 3 subjects.
 - b. Eligible Legal Officers will be prioritised for empanelment on LTM 3 subjects in accordance with their relative seniority at CL3.
 - (1) **Except** Permanent Legal officers will be given priority over Reserve Legal Officers unless the Reserve Legal Officer holds seniority at CL3 of greater than twelve months more than the comparative Permanent Legal Officer.
 - (2) **Except** where a Legal Officer has been identified for deployment and completion of a LTM Operations Law subject is required for that Legal Officer.
 - c. Legal Officers will not normally be panelled on more than two core subjects for LTM 3 in any one calendar year unless they have at least two years' seniority at CL3.
 - (1) Discretion will be used when applying this criterion. Legal Officers who have completed the Task Journal requirements for progression to CL4 should not be disadvantaged in the panelling process.
 - (2) **Except** where a Legal Officer has been identified for deployment and completion of a LTM Operations Law subject is required for that Legal Officer.
 - d. Reserve Legal Officers, other than on CFTS, will not be funded for LTM 3 electives unless:

- (1) Prior to Feb 03, the Reserve Legal Officer had been given approval to undertake the full LTM 3 program, including electives;
 - (2) Prior to 4 Mar 08, the Reserve Legal Officer had been a member of the permanent force when approval had been given to undertake the full LTM 3 program, including electives, and had since transferred to the Reserve; and
 - (3) Completion of an elective within the LTM 3 program is required for the Reserve Legal Officer to carry out duties that the officer is or may be required to carry out and the Committee has approved completion of the elective by that officer.
- e. Empanelment on LTM 3 elective subjects will be supported where possible, subject to funding constraints and equitable treatment of Legal Officers.
- (1) Where funding constraints mandate limits to elective subject approvals, the factors considered by DMLC will include the number of subjects each Legal Officer is seeking to undertake and the respective seniority in CL.

Guidance on Legal Officer Training

56. The LO CPDC has provided guidance on Legal Officer training to commanders¹².

57. In short, the intention is to achieve a balance between career progression requirements, members' desires and operational requirements. The decision to release Legal Officers for legal training should take into account the need of the member to undertake professional Legal Officer training as well as unit requirements and attendance at major exercises or deployments, which are equally critical for professional development and progression.

58. Table 3 below is the example timeline for Legal Officer training progression provided in the guidance to commanders.

Table 3 - Example Legal Officer Training Progression

Year in Service	Legal Officer Specialist Training	Military Skills/Promotion Training (not all mandatory)
1	LTM 1	IOT
2	CL2: LTM 2 – two subjects	Single Service promotion prerequisite training Joint warfare training
3	CL2: LTM 2 – two subjects	
4	CL2: Any remaining subjects for LTM 2 not previously completed CL3: Commence LTM 3 subjects	
5	CL3: LTM 3 – two subjects	
6	CL3: LTM 3 – two subjects	Single Service promotion prerequisite training Command and Staff college Joint warfare
7	CL3: LTM 3 – two subjects	
8	CL3: LTM 3 – two subjects	

¹² See the Defence Legal web sites, at either the LOCPDC Policy Decisions link of the Career Management page of the intranet site (<http://intranet.defence.gov.au/dsg/DLD/>) or the internet site <http://www.defence.gov.au/legal/cm.html>.

Failure of Legal Training Module Subjects

59. **LTM 1.** The following policy applies to failures of LTM 1:
- a. Legal Officers who fail the LTM 1 examination may be offered a supplementary examination at the discretion of the Director MLC;
 - b. In the event that the Legal Officer is not offered a supplementary examination or fails the supplementary examination the Legal Officer will be required to repeat the LTM 1 course within the following 18 months.
60. Legal Officers who do not repeat LTM 1 within the 18 month time frame or fail LTM 1 a second time are to have their appointment as a Legal Officer reviewed and the LO CPDC may recommend that the Legal Officer be issued with a termination notice.
61. **LTMs 2 and 3.** The following policy applies to failures of LTM 2 and 3 subjects:
- a. Legal Officers who fail any LTM 2 or LTM 3 subject (including withdrawals that attract financial penalty or any other form of failure to pass) are liable to fully fund the university fees on any repeat or replacement subject.
 - b. If the Legal Officer considers there are extenuating circumstances (i.e. reasons beyond their control) that account for the failure, the Legal Officer is to:
 - (1) make application through the University appeals system to state their case. If the extenuating circumstances relate to service reasons the MLC is available to provide input in support of such an application; and
 - (2) where the University does not agree to waive the fees for a repeat or replacement subject and the Legal Officer believes the extenuating circumstances to be service related, the Legal Officer may make an application to the LO CPDC for funding and the LO CPDC will consider the application on its merits, taking into account the policy set out in subparagraph 55.a.
62. Legal Officers who are unable to complete LTM 2 because of repeated failure in one or more subjects are to have their appointment as a legal officer reviewed and the LO CPDC may recommend that the Legal Officer be issued with a termination notice or that the Legal Officer's current appointment not be extended.

Study Leave

63. The LO CPDC has authorised reserve Legal Officers to claim up to three days per subject for study and the undertaking of the examination or completion of paper. Where a Legal Officer has failed LTM 1 and is required to complete a supplementary exam, no further days will be allocated for completion of the supplementary exam.

64. Legal Officers in the permanent force will need to seek approval for study leave. If a commander seeks guidance on the amount of short leave to be approved, the LO CPDC considers that short leave of three days per subject is reasonable.

Enrolment in LTM 1, 2 and 3 Courses

65. For information concerning enrolment in LTM 1, 2 and 3 courses (including elective subjects for which funding by Defence Legal is sought) contact the MLC by:

Email to: mlc.admin@defence.gov.au

Phone: 02-9349 0758 or
02-9349 0628

Fax: 02-9349 0757

Or mail to: Military Law Centre
Building 100, Randwick Barracks
Avoca Street
Randwick NSW 2031

PART D - THE LO CPDC, INCLUDING APPLICATIONS AND REVIEWS

66. The Legal Officers' Career and Professional Development Committee (LO CPDC) consists of:

- a. **Chair.** Director General ADF Legal Services (DGADFLS).
- b. **Advisers.**
 - (1) Director Navy Legal Services (DNLS);
 - (2) Director Army Legal Services (DALs);
 - (3) Director Air Force Legal Services (DAFLS);
 - (4) Director Legal Reserves Management (DLRM);
 - (5) Director of the Military Law Centre (DMLC);
 - (6) National Practice Manager - Defence Legal (NPM);
 - (7) One representatives from each of the single Service CMs; and
 - (8) Special Adviser to DGADFLS.
- c. **Secretary.** The LO CPDC Secretary is the Special Adviser to DGADFLS.

67. The functions of the LO CPDC are to advise the DGADFLS on:

- a. Any changes to the assessment criteria for CL consistent with the decisions of the DFRT;
- b. Recommendations concerning the CL, rank, seniority and salary increment of applicants being considered for appointment as a Legal Officer in the ADF;
- c. Recommendations concerning the CL, rank, seniority in rank and salary increment of officers seeking to transfer as a Legal Officer in the ADF;
- d. Decisions or recommendations on the progression of Legal Officers to higher CL within the LOSOCS;
- e. Legal Officer legal training policy;
- f. Training issues relating to individual Legal Officers;
- g. The CL of legal officer positions; and
- h. Any other matter relating to the professional development of Legal Officers.

68. DGADFLS is to:
- a. Review the assessment criteria for CL and make any policy decision or recommendation for change consistent with the decisions of the DFRT;
 - b. Assess and make recommendations to the relevant CM concerning the CL, rank, seniority in rank and salary increment of applicants being considered for appointment as a Legal Officer in the ADF;
 - c. Assess and make recommendations to the relevant CM concerning the CL, rank, seniority in rank and salary increment of officers seeking to transfer as a Legal Officer in the ADF;
 - d. Decide or make recommendations, as appropriate, to the relevant CM on the progression of Legal Officers to higher CL within the LOSOCS;
 - e. Determine ADF Legal Officer legal training policy;
 - f. Determine training issues relating to individual Legal Officers;
 - g. Make recommendations to the relevant CM concerning the CL of Legal Officer positions; and
 - d. Determine or make recommendations, as appropriate, on any other matter relating to the professional development of Legal Officers.

Applications to the LO CPDC

69. Requests to join the LOSOCS, applications for advancement in CL and all other applications to the LO CPDC are to be initiated by the individual Legal Officer or applicant. Applications are to be made directly to the LO CPDC Secretary, preferably by e-mail, as follows:

E-mail to: CPDCsecretary@DRNEX.defence.gov.au

Fax: 02-626 63192 (Attn: LO CPDC Secretary)

or **mail to:** LO CPDC Secretary
Defence Legal, CP2-4-049
Department of Defence
CANBERRA ACT 2600

70. Applications to the LO CPDC should be in accordance with the appropriate form set out in the Defence Legal web sites, at either the LO CPDC Forms and Meeting Dates link of the Career Management page of the intranet site (<http://intranet.defence.gov.au/dsg/sites/DLD/>) or the internet site <http://www.defence.gov.au/legal/cm.html>.

71. Advice in relation to LO CPDC applications may be sought from LO CPDC Secretary.

72. The decisions of the LO CPDC, including an explanation or reasons, are signed by the Chair and, where a decision is required from the CM delegate, forwarded to the single Service CM for consideration by the CM delegate, with a copy provided to the member.

73. When a decision is made by the CM delegate, reasons for the decision are to be passed by the CM to the Legal Officer with the decision, and will include:

- a. the evidence considered in making the assessment, including the relevant factors taken into account (i.e. the basis for the assessment);
- b. the recommendation and decision itself;
- c. the date of effect of any decision;
- d. the date of effect of any pay, seniority or increment placement that may eventuate; and
- e. any other relevant matter which may affect the future placement of the Legal Officer within the LOSOCS.

Reviews

74. In the first instance, where a Legal Officer does not accept the CM delegate's decision, the Legal Officer may request that the matter be reconsidered and may provide new or additional material for reconsideration. In such circumstances the CM is to forward the request and any new or additional evidence to the LO CPDC for reconsideration.

75. The LO CPDC is to notify the CM of the fresh recommendation to enable the CM delegate to make a fresh decision. The Legal Officer will be advised of the delegate's fresh decision by the CM. If the Legal Officer does not accept the CM delegate's fresh decision the Legal Officer may request that the matter be considered by the Review Committee and may provide new or additional material for consideration.

76. In such circumstances the CM is to forward the request and any new or additional evidence to the Review Committee for consideration. The Review Committee is to consider the material, make a recommendation and notify the CM delegate of the recommendation of the Review Committee. The CM delegate will make a decision and inform the Legal Officer and the Chair of the LO CPDC of the delegate's decision in relation to the application for review and will provide reasons for the decision.

77. **Review Committee.** The composition of the Review Committee will include:
- a. Chair - an officer appointed by Director General Navy Personnel and Training, Commander Career Management Agency or Director General Personnel-Air Force as the Chair of the Review Committee;
 - b. a senior Legal Officer nominated by DGADFLS; and
 - c. a single Service CM representative.
78. The review process does not restrict the right of a member to make Application for Redress of Grievance (AROG) in accordance with Defence Instruction (General) Personnel 34-1 *Redress of Grievance – Tri Service Procedures*.

PART E - OUT-OF-CATEGORY POSTINGS

79. Specialist officers normally will be employed entirely within their specialisation. Postings outside of specialist duties may be required to import knowledge and skills necessary for career progression within a SOCS structure or to fill positions requiring specialist knowledge as determined by the single Services. Ideally Legal Officers should not be posted outside of specialist legal duties for a posting in excess of three (3) years.