

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

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 Service (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)¹.

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 force² 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 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>.

¹ 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.*

² Only one legal officer in the permanent force has chosen not to transfer to the LOSOCS.

Deleted: 31 Jan 13

5. The creation of the LOSOCS saw the introduction of legal levels (LL, sometimes referred to as CL) which range from LL1 to LL5. Legal Officers serving in the ADF as at 16 Mar 00 were transferred to the LOSOCS at a specific LL by their Service career/personnel manager (CM). The LL on transfer was based on a recommendation made by the LO CPDC for the officer to be deemed at a particular LL taking into account the Legal Officer's rank, experience and qualifications.

6. Linked with advancement from LL1 to LL5 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 policy covers:

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

Deleted: 31 Jan 13

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 form³ and lodge the request with the Secretary of the LO CPDC⁴. Where possible the request to become a member of the LOSOCS should be made as soon as practical after the applicant has been successful in the application for entry as a legal officer to the single Service. The LO CPDC will consider the request to join the LOSOCS and make a recommendation to the appropriate Service CM.

³ These forms are on the Defence Legal web sites, at either the LOCPDC Forms 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>.

⁴ For further guidance on applications to the LO CPDC see paragraphs 69-71.

Deleted: 31 Jan 13

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 O01 rank⁵. Potential Legal Officers who have completed degree studies normally are required to complete a Graduate Diploma in Legal Practice 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 LL1 status and promoted to the O02 rank⁶.

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 at the O02 or O03 rank⁷ (refer to paragraphs 17 – 22) and granted LL1 status. During service as a LL1 Legal Officer the member will be required to undertake single Service Initial Officer Training (IOT) and Legal Training Module (LTM) 1. Where a lawyer seeking a direct entry appointment or transfer as a Legal Officer in the reserve forces has made an outstanding contribution to the practice of a relevant area of law through distinguished contributions to legal policy or practice and has attained peer and/or industry recognition as an authority in their area of law 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 O03 or O04 rank⁸ and granted LL-B status. The LL-B applicant will still be required to complete LTM1 and some form of IOT as determined by the relevant CM delegate. Where a lawyer seeking a direct entry appointment or transfer as a Legal Officer in the reserve forces has made a singular contribution to the practice of a relevant area of law through original, innovative and distinguished contributions to legal policy or practice and has attained peer and/or industry recognition as an authority of national or international standing in their area of law 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 O03, O04 or O05 rank⁹ and granted LL-A status. The LL-A applicant will still be required to complete LTM1 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 LL as that held prior to resignation. Officers and former officers of the ADF, other than former Legal Officers, will be appointed with LL1 status unless they have completed LTM1, in which case they may be appointed with LL2 status, with rank, salary and seniority in rank and salary depending on prior experience

⁵ The O01 rank is either Acting Sub Lieutenant, Second Lieutenant or Pilot Officer.

⁶ The O02 rank is either Sub Lieutenant, Lieutenant or Flying Officer.

⁷ ~~The O03 rank is either Lieutenant, Captain or Flight Lieutenant.~~

⁸ The O04 rank is either Lieutenant Commander, Major or Squadron Leader.

⁹ The O05 rank is either Commander, Lieutenant Colonel or Wing Commander.

Deleted: The O03 rank is either Lieutenant, Captain or Flight Lieutenant and t

Deleted: 31 Jan 13

(refer to paragraphs 17 – 22). During service as a LL1 Legal Officer the member will be required to undertake LTM1. 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 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 O03 rank. In exceptional circumstances an officer or former officer who has completed LTM1 may be appointed or transferred in the O04 rank. Officers who seek transfer may obtain an 'in-principle' recommendation from the LO CPDC and CM regarding their rank, seniority and LL status prior to making a formal application to transfer.

Deleted: where the applicant has completed LTM1

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 appointed with LL1 status unless they have completed LTM1, in which case they may be appointed with LL2 status, with rank, salary and seniority in rank and salary depending on prior experience (refer to paragraphs 17 – 22). During service as a LL1 Legal Officer the member will be required to undertake LTM1. 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 their rank, salary and seniority in rank and salary upon appointment as a legal officer.

Deleted: who have completed LTM1

Deleted: LL,

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

Deleted: 31 Jan 13

- b. *Paralegal experience* means experience in legal matters as a person not admitted to practice and includes experience as a legal clerk or articled 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 rank, salary and seniority in rank and salary upon appointment as a legal officer:

Deleted: who has completed LTMI

- 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 three years for seniority in rank purposes and six years for seniority in salary;
- c. for prior paralegal experience – credit of 25%, up to a maximum of one year for seniority in rank and salary, 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 seniority in rank purposes is three years and for seniority in salary at LL2 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.

Deleted: 31 Jan 13

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

← **Formatted:** Heading 2

Deleted: 31 Jan 13

| 7 Mar 13

