

OUTLINE OF THE ADF LEGAL OFFICERS' SPECIALIST CAREER STRUCTUREⁱ

Introduction

1. In Feb 00, the Defence Force Remuneration Tribunal approved the introduction of the Legal Officers' Specialist Career Structure (the new Structure) commencing from 16 Mar 00. The new Structure is consistent with flexible career management and is based on short service commissions of six years for officers in the permanent forces.
2. The most important feature of the new Structure was the introduction of legal competency levels (LL), which range from LL 1 to LL 5. The Career and Professional Development Committee (CPDC) of The Defence Legal Service (TDLS) determine these on a case by case basis. Now, an ADF legal officer's pay is dependent on rank, LL and pay seniority/increment.
3. When the new Structure was introduced serving legal officers were deemed to be at a particular LL based on their rank and pay seniority as at 16 Mar 00. Advancement in LL is dependent upon each officer's:
 - Academic progressionⁱⁱ;
 - Demonstrated legal skill;
 - Time as an ADF legal officer; and
 - Rank, in appropriate cases.
4. It is each individual officer's responsibility to nominate for appropriate courses to satisfy the various requirements. Additional information may be obtained from the CPDC Secretaryⁱⁱⁱ and the Career Management and Military Law Centre segments of the Legal Web site www.defence.gov.au/legal

Appointment, Transfer and Advancement under the New Structure

5. Newly Admitted Lawyers. Where a newly admitted lawyer, without prior experience^{iv}, seeking a direct entry appointment to one of the Services as a legal officer is considered suitable for appointment as a legal officer^v by the relevant Service and the CPDC, the applicant will be appointed in the O2^{vi} rank, granted LL 1 and receive pay at the O2 (LL 1) on promotion (OP) rate of salary. During the first 12 months of service the legal officer will be required to undertake single Service initial officer training and Legal Training Module (LTM) 1^{vii}. On satisfactory completion of the training the member must seek approval of the CPDC to advance to LL 2.
6. Once the legal officer has CPDC approval to advance to LL 2 the member will be considered for promotion to O3^{viii} and, once promoted, will receive pay at the O3 (LL 2) OP rate of salary.

7. Applicants with Prior Experience. Applicants with prior legal and paralegal experience may be appointed in the rank of 03 and be granted LL 2 on a provisional basis^{ix}. The CPDC should be requested to determine the appropriate credit^x that an applicant should receive and to make recommendations as to rank and seniority on appointment to the career manager prior to the Service making an offer of appointment.

8. Transfer. An officer in the ADF general officer stream may seek a transfer to the new Structure. The suitability for transfer of such an officer will be considered by the CPDC and a recommendation made to the career manager. The CPDC may recommend that an officer is suitable for appointment or transfer to the new Structure at a lower rank than that currently held by the applicant. In most circumstances the maximum rank for transfer is 03, however, in exceptional circumstances the maximum rank may be, in the case of a member in the permanent forces, 04, and, in the case of a member in the Reserve, 05. Officers of higher rank will not be transferred. Officers who seek to transfer may obtain an 'in-principle' determination from the CPDC regarding their LL status prior to making a formal application to transfer.

9. Where an officer is transferred to the new Structure in the 03 or 04 rank, that officer normally will be granted LL 2 on a provisional basis^{xi}. Such an officer may apply for recognition of prior legal and/or paralegal experience and/or other relevant service^{xii}. An officer in the 04 rank will receive pay at the 04(a) rate of salary at the increment that takes account of the member's increment level immediately prior to transfer or that takes account of the credit granted by the CPDC for the member's prior experience, whichever is the greater. The legal officer will remain on the 04(a) rate of salary until advanced to 04 (LL 3) O/P rate of salary.

10. Advancement. Legal officers with LL 2 status will be required to undertake LTM 2^{xiii}. Such officers may advance to LL 3 provided they have satisfied three criteria, namely:

- a. satisfactorily completed LTM 2;
- b. demonstrated (to the CPDC) legal skill in one legal core area. The legal core areas are Military Discipline, Military Administrative and Operations Law; and
- c. at the time of advancement, will have completed 4 years service as a legal officer (including any credit granted by the CPDC for prior legal and/or paralegal experience and/or other relevant service)^{xiv}.

11. Once the legal officer has advanced to LL 3, the legal officer's salary will be adjusted to the 03 (LL 3) OP rate^{xv}. Subject to formal agreement of the promotion authority, advancement to LL 3 is one of the prerequisites for promotion^{xvi} to the 04 rank.

12. Legal officers with LL 3 status will be required to undertake LTM 3^{xvii}. Such officers may advance to LL 4 provided they have satisfied four criteria, namely:

- a. hold the 04 rank;
- b. satisfactorily completed LTM 3;

- c. demonstrated (to the CPDC) legal skill in two legal core areas, including the one previously demonstrated to achieve advancement to LL 3; and
- d. at the time of advancement, will have completed 10 years service as a legal officer (including any credit granted by the CPDC)^{xviii}.

13. Once the legal officer has CPDC approval to advance to LL 4, the legal officer's salary will be adjusted to the 04 (LL 4) OP rate. Subject to formal agreement of the promotion authority, advancement to LL 4 is one of the prerequisites for promotion to the 05 rank.

14. Legal officers with LL 4 status may advance to LL 5 status provided they have satisfied four criteria, namely:

- a. currently hold the 05 rank;
- b. demonstrated (to the CPDC) legal skill in all three legal core areas, namely, Military Discipline, Military Administrative and Operations Law, including the two previously demonstrated to achieve advancement to LL 4;
- c. demonstrated (to the CPDC) management skill; and
- d. will be promoted to the 06 rank at time of advancement.

Time in Rank (TIR)

15. As distinct from LL advancement, minimum TIR requirements apply to substantive promotion according to policies in each Service.

Applications to the CPDC

16. Applications for recognition of prior legal and/or paralegal experience and/or other relevant service and advancement in LL are to be initiated by individual officers. Applications are to be made directly to the CPDC Secretary. The current Secretary is the Special Adviser to DGADFLS. Applications may be made by e-mail to the cpdcsecretary@drnex.defence.gov.au, with supporting documents sent by facsimile (02 612 79005). Alternatively, the applications with supporting documents may be mailed to:

CPDC Secretary
Defence Legal
RGC-3-228
CANBERRA ACT 2600

17. Applications to the CPDC are to include:

- 1. The reason for the application, eg to join the LOSCS, to advance to LL3, etc.
- 2. All information relevant to the application, eg
 - (i) To join the LOSCS - the appropriate form RA1, PA1, RT1 (with enclosure, if applicable) etc.

- (ii) Details of:
 - (a) Date of admission
 - (b) If applicable, date of appointment as an ADF legal officer, current rank and date of promotion to current rank.

- (iii) To advance to LL3 - material that satisfies the three criteria for advancement, namely:
 - (a) academic qualifications - a copy of the Graduate Diploma
 - (b) experience as a legal officer- brief details of your service as a legal officer (if a RLO, number of days served each FY and any credit previously granted by the CPDC for prior experience (or if you seek credit for prior experience not previously approved by the CPDC, details of you prior legal, paralegal or military service); and
 - (c) demonstrated skill - nomination of the one area of law that you seek recognition of demonstrated skill, a detailed list (dot point) of tasks within that area of law that you have undertaken and the frequency with which you have undertaken those tasks, between 2 and 4 examples of written work you have completed in that area of law, and the word picture extracts of recent PARS or, if there are no PARS, other reports on your performance as a legal officer.

18. Advice in relation to such applications may be sought from CPDC Secretary or other senior legal officers.

Undergraduate Entry and Civil Schooling

19. Applications for undergraduate entry or civil schooling in order to become an ADF legal officer will be considered by the CPDC and a recommendation made to the appropriate career manager.

20. Undergraduates. Applicants who are approved for undergraduate training normally are appointed in the rank of OCDT(E) and remain in that rank until successful completion of the law degree. The salary payable to an undergraduate is in accordance with the salary payable to Members Undergoing Training and is dependent on the number of years until graduation.

21. Subject to any conditions referred to in the offer of appointment, on 1 January after successful completion of the law degree, officers will be promoted the rank of 01 and receive pay at the 01 OP rate of salary while undertaking further admission requirements.

22. Once admission arrangements have been made, the member must seek approval of the CPDC to join the new Structure and be granted LL 1 status. Subject to any conditions referred to in the offer of appointment, upon admission

as a legal practitioner, officers will be promoted to 02 rank, granted LL 1 status as a legal officer and receive pay at the 02 (LL 1) OP rate of salary. During the first 12 months of service as a legal officer the member will be required to undertake single Service initial officer training and Legal Training Module (LTM) 1^{xix}. On satisfactory completion of the training the member must seek approval of the CPDC to advance to LL 2^{xx}.

23. Civil Schooling. An ADF member may seek approval for civil schooling to undertake or complete a law degree and/or admission requirements in order to join the new Structure. The suitability of such a member to receive civil schooling and to be a legal officer in the future will be considered, initially by the CPDC and then by the member's Service. The CPDC may recommend that an officer is suitable for civil schooling at a lower rank than that currently held by the applicant. In most instances the maximum rank for an officer receiving civil schooling in order to join the new Structure is 03^{xxi}.

24. Officers approved to undertake civil schooling in order to join the new Structure are not eligible for further promotion until the CPDC recommends a promotion taking into account the officer's legal competency level. Upon completion of civil schooling and once admission arrangements have been made, the member must seek approval of the CPDC to join the new Structure. The member's LL status will be dependent on the member's rank and any credits granted by the CPDC^{xxii}.

Legal Training Modules (LTM)

25. LTM 1 is the distance learning package. This is a self-paced package subject to a web based assessment format. This package equips the member with the basic knowledge to work as an ADF legal officer at entry rank level.

26. The Military Law Centre (MLC), in conjunction with the University of Melbourne Law School, conduct LTM 2 and 3. Additional information may be obtained from the MLC (under Training and Development) segment of the Legal web site www.defence.gov.au/legal

27. LTM 2 consists of the following subjects:

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

These subjects equip the legal officer with the knowledge to work at the tactical and operational level at the senior 03 to 04 rank levels.

28. Satisfactory completion of the above four subjects will result in a Graduate Diploma in Military Law from the University of Melbourne. If the legal officer has a tertiary qualification that normally would not have been acceptable for admission to post-graduate studies at the University of Melbourne, the University of Melbourne may permit the legal officer to participate in the LTM 2 course on a probationary basis. Should a legal officer not be permitted by the University of Melbourne to participate in the LTM 2 course or should a legal officer whose

participation in the LTM 2 course is probationary, fail any of the LTM 2 subjects, then the legal officer will not be able to continue in the academic program, will not advance in LL and, therefore, will not have his/her appointment extended or renewed.

29. LTM 3 requires completion of the following core subjects:

- a. Advanced Military Administrative Law,
- b. Advanced Military Discipline Law, and
- c. Advanced Military Operations Law.

These subjects equip the legal officer with the knowledge to work at the operational and strategic level at the senior 04 to 05 rank levels. In addition to these core subjects, members of the permanent forces are required to complete five other subjects.

30. Satisfactory completion of the above three subjects and five other subjects^{xxiii} will result in a Masters degree^{xxiv} from the University of Melbourne. All elective subjects must be chosen from a list of University of Melbourne and MLC approved subjects. Legal officers may apply to have particular subjects added to this list or approved for their circumstances. LTM 2 subjects are not included in the subjects counted towards the LLM. If the legal officer has a Graduate Degree that normally would not have been acceptable for admission to post-graduate studies at the University of Melbourne their participation in LTM 3 will be subject to satisfactory completion of LTM 2. Officers in the permanent forces who already have a LLM will be required to complete the above three core subjects and may elect to complete the above three subjects and one other to obtain a Graduate Diploma in Advanced Military Law.

31. Prior Learning Accreditation. Accreditation for prior learning for University of Melbourne courses is at the discretion of the University of Melbourne. Accreditation for prior learning and requests for exemption from any LTM course or subject should be made in the first instance to the [MLC](#).

32. Breaches. Legal officers are reminded that they remain ADF members when undertaking legal training and any integrity related breaches of University standards such as plagiarism may be subject to military administrative or disciplinary action in addition to University action.

Out-of-Category Postings

33. In its decision in Feb 00 the Defence Force Remuneration Tribunal (DFRT) commented on ADF legal officers being posted to non-legal positions (out-of-category postings) and accepted the proposed three year sunset provision^{xxv}.

34. ADF legal officers in the permanent forces or on continuous full-time service retain their specialist legal salary during an out-of-category posting only if the CDF^{xxvi}, after considering the recommendation of the CPDC, approves the circumstances of the out-of-category posting taking into account^{xxvii}:

- a. the duties the officer will perform;

- b. the expected period of these duties;
- c. the relevance of these duties to the office's future responsibilities as a legal officer; and
- d. the career progression of the officer within the legal stream.

35. Even if approved to continue to receive legal specialist salary while in an out-of-category posting or postings, legal specialist salary will cease after a continuous period of three years in out-of-category postings (since 16 Mar 00 or joining the new Structure, whichever is the latter).

36. The CPDC will determine on a case by case basis whether the time spent in an out-of-category posting will count towards the service required to be completed by a legal officer seeking advancement in LL status^{xxviii}. Legal officers in out-of-category postings should keep records of the time spent on any legal functions or duties during the out-of-category postings.

ⁱ This policy will be set out in a Defence Instruction currently being drafted.

ⁱⁱ Legal officers who were ADF legal officers when the new Structure was introduced in Mar 00 and who seek to rely on completion of the Legal Officers' Basic or Advanced Courses to satisfy the normal education criteria during the transitional phase need approval by the CPDC. The transitional arrangements will cease in Mar 04 and, thereafter, legal officers will be required to complete the new academic requirements to advance in legal competency level.

ⁱⁱⁱ See paragraph 16.

^{iv} See paragraph 7 and endnotes viii and x.

^v The applicant should have a tertiary qualification that would be acceptable for post-graduate studies at the University of Melbourne. See paragraph 28.

^{vi} Ranks are 01 = 2LT(E); 02 = LT(E); 03 = CAPT(E); 04 = MAJ(E); 05 = LTCOL(E); 06 = COL(E) and 07 = BRIG(E).

^{vii} See paragraph 26.

^{viii} The CPDC and career managers will consult on the timing of the promotion.

^{ix} LL 2 status will be made unconditional by the CPDC once the member has satisfactorily completed single Service initial officer training and LTM 1.

^x The CPDC will recognise prior legal and paralegal experience but may exercise its discretion in determining the value of particular types of experience on a case by case basis. For example, credit of up to 50%, up to a maximum of three years, is given where prior legal experience outside Defence is recognised and credit of up to 25%, up to a maximum of one year, is given where prior paralegal experience outside Defence is recognised. If a combination of prior legal and paralegal experience is sought to be recognised the maximum credit available is three years. Legal experience is experience as a lawyer after admission. The CPDC will advise the applicant as to how it came to determine the recognition of prior legal and paralegal experience.

^{xi} LL 2 status will be made unconditional by the CPDC once the member has satisfactorily completed LTM 1.

^{xii} The CPDC will grant credit, up to a maximum of six months, for the time spent in undertaking single Service initial officer training prior to appointment in, or transfer to, the new Structure.

^{xiii} See paragraphs 27 and 28 and endnote ii.

^{xiv} In certain circumstances a legal officer may be granted advancement on a conditional basis after completion of 3½ years service as a legal officer.

^{xv} In the case of an officer transferred to the new Structure in the 04 rank, the legal officer's salary will be adjusted to the 04 (LL 3) OP rate.

^{xvi} See also paragraph 15.

^{xvii} See paragraphs 29 and 30. Reserve legal officers will be required to complete only the core subjects of LTM 3

^{xviii} In certain circumstances a legal officer may be granted advancement on a conditional basis after completion of less than 10 years service as a legal officer.

^{xix} See paragraph 26.

^{xx} See also paragraphs 6 and 10 to 15.

^{xxi} See also paragraph 8.

^{xxii} See paragraphs 5 to 9. See also paragraphs 10 to 15 for further advancement.

^{xxiii} Subject to the approval of the University of Melbourne and the MLC up to two of these five subjects may be completed at institutions other than the University of Melbourne. Further details are available from MLC staff and the MLC segment of the website.

^{xxiv} The Masters degree is either a Master of Laws (LLM) or Master of Military Law (MMilitaryLaw). Subject to approval from the University of Melbourne a legal officer may transfer from one Masters program to the other prior to completion of their last semester of their enrollment.

^{xxv} Paragraph 37 of the DFRT decision states: “In respect to the proposed three year sunset provision, where it is a decision of ADF management that a Legal Officer be posted out of stream for a specific requirement and a specific period of time that Legal Officer may continue to be remunerated according to the Legal Officer structure. We accept that those members currently posted out of stream may be placed in the new Legal Officers structure, if they so elect, and may therefore be entitled to be paid according to that structure for the duration of their posting.”

^{xxvi} The delegates of the CDF are DGCMP for legal officers of COL(E) rank and DGNPT, DGPERS-A and DGPERS-AF for legal officers in their respective Service below COL(E) rank.

^{xxvii} See clause 4 of the DFRT’s Determination No. 2 of 2000, Salaries of legal officers (Determination No. 6 of 1992 – Amendment).

^{xxviii} Periods of training, such as initial officer training, Australian Command and Staff College, Australian Defence College and postgraduate legal studies, will be counted as service for the purposes of advancement in LL status. In other out-of-category postings the portion of time spent on legal duties will be the period of time counted as service for the purposes of advancement in LL status.