

Pensions & Compensation Policy Instruction

**The Armed
Forces Pension
Schemes**

PCPI 10/14
(replacing PCPI 01/14)

2014

Reference: CDP Remuneration – AFPS75 – Pensions - OCFRs

What this is about:	Ceasing comparison of benefits for Officers Commissioned From the Ranks (OCFRs) 5 years and over commissioned service - introduction of new representative rates for OF2 OCFRs
Which schemes are affected:	AFPS 75
Who should read this:	SPVA MOD Authority and SPVA Pensions Administrators (CSC)
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When it takes effect:	6 January 2014
Review date:	6 January 2016
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This PCPI replaces **PCPI 01/14**, which is now cancelled. This PCPI amends paragraph 16, which removes the requirement for an ill health OCFR to serve at least two years.

Issue

1. Ceasing comparison of immediate pension benefits (between OR9 rates plus commissioned service addition and OF2 rates) and the introduction of a representative rate within the pension codes for OF2 OCFRs.

Background

2. In 2008 the IDR case of Cunningham, an OCFR who left after the 5 year point at his own request, called for a legal interpretation of the rules in the Army Pension Warrant (APW), specifically Art 42. This resulted in the current practice of comparing benefits (between OR9 rates plus commissioned service addition (CSA) and OF2 rates) for OCFRs with five or

more years commissioned service (total 22+ years from age 18) who leave at their own request or at any time on compulsory terms. The original CLS advice in the Cunningham case cannot be applied to the current rules.

APW 77 - Service Retired Pay – Conditions of Award – Art 42

42. When an officer who was appointed to a regular, special regular or short service commission after serving on a regular engagement in the ranks is permitted to retire at his own request, notwithstanding that he may have completed 16 years reckonable service, he shall not be eligible for an award of retired pay under Article 50 unless he has completed at least 5 years commissioned service. He may, however, provided he has completed 2 years commissioned service, be awarded a preserved pension under Articles 44 and 54. Alternatively, he may, provided he has the necessary reckonable service, be awarded a pension under Article 145 or 147 at Warrant Officer Class I rates, based on his total reckonable service as if he had remained in the ranks. This award may be replaced at pension benefit age by an officer's rate of preserved pension if it would be to his advantage.

Policy Position in the current rules (January 2011) – Voluntary Leavers

3. The current Armed Forces Pension Scheme 1975 (Amendment) Order 2010 (the harmonised rules) at Rule D5(6) do allow a comparison to be made for OCFRs with at least two but less than five years commissioned service who leave at their own request. They are automatically awarded an OR9 rate plus CSA - the comparison with the officer rate comes later when the award is reviewed at age 60/65 (known historically as expunge cases):

(6) If—

- (a) the member has not completed five years' qualifying service as an officer, and
- (b) the member ceases service at the member's own request,

the annual amount of the pension is calculated under rule D.6, and not this rule, as if the member had been discharged with the pension rank of OR-9 on the day on which the member ceased service.

4. Rule D6(2) allows CSA to be awarded to an OCFR with more than two years commissioned service (NB. this will change to one year when the rules are amended in 2014) and D10 allows an increase at age 60/65:

(2) Subject to the following provisions of this rule and rule D.10 (increase at age 60 or 65), the annual amount of the pension is the aggregate of—

- (a) the amount specified, for a person of the member's pension rank with the number of whole years' reckonable service that the member has, in the relevant table in the pension code in force on the member's last day of pensionable service;
- (b) if rule D.8 (reckonable service in excess of whole years), D.14 (rank addition) or D.15 (professional supplement) applies, an additional amount calculated in accordance with that rule; and
- (c) if the member served as an officer for a period of at least two years, an additional amount calculated in accordance with paragraph (8).

Conclusion – voluntary leavers

5. We cannot rely on the provisions of the APW, whether the interpretation in 2008 was correct or otherwise; the current rules are the baseline from which we must operate. Leaving at or after the five year point with sufficient qualifying service for an immediate pension should result in the award of an officer rate of pension. The practice of making comparisons, other than the reassessment at age 60/65 must cease with effect from 6 Jan 2014.

Action Required: Comparisons – Voluntary Leavers

Comparisons for this group to cease with effect from 6 Jan 2014.

Policy Position in the current rules (January 2011) – Compulsory Leavers

6. The current rules do not allow for a comparison of pension benefits for OCFRs who leave on ill health, death or redundancy. There are already provisions in the rules which are intended to recognise the fact that the OCFR is not leaving at his own request, for example, the qualifying period for pension rank may be disregarded and the pension will be awarded at the ill health or compulsory rates, which are higher than the standard rates. Redundancy compensation and ill-health awards also provide additional benefits.

7. Rule A2(4) provides that the pension rank is the rank held on the last day of service for death in Service, ill-health and redundancy:

A.2 Pension rank

(1) Unless paragraph (4) applies, a member's pension rank is the highest substantive rank or paid acting rank that the member has held for the qualifying period

(2) The qualifying period is—

- (a) in the case of a substantive rank of OF-7 or above, one year;
- (b) in the case of a substantive rank between OF-1 and OF-6, two years;
- (c) in the case of a paid acting rank of OF-1 or above, three years (or periods amounting in total to three years);
- (d) in the case of a rank of OR-9 or below, two years (or periods amounting in total to two years) within the member's last five years of pensionable service.

(3) If—

- (a) a member has held two ranks,
- (b) the member held neither of those ranks for the qualifying period, and
- (c) the aggregate of the periods for which the member held those ranks is at least equal to the qualifying period for the lower rank,

the member is to be treated for the purposes of paragraph (1) as having held the lower rank for the qualifying period

- (4) If—
- (a) the member's last substantive rank is higher than that given by paragraph (1), and
 - (b) any of conditions A to C is met,
- the member's pension rank is that higher rank.
- (5) Condition A is that the member dies in service.
- (6) Condition B is that rule D.7 (ill-health pension) applies.
- (7) Condition C is that the member is notified by the Defence Council that the member is to be treated for the purposes of AFRS as having become redundant.

Conclusion – compulsory leavers

8. Comparisons that are currently being made for all OCFRs who leave at or after the five year point voluntarily or at any time on compulsory terms should cease. With the agreement of the Pay Colonels, the current practice for making comparisons for redundancy leavers should continue through to the end of the applicant stage of Tranche 3 of the Redundancy Programme, but cease from 6 January 2014 (the non applicant phase).

Action Required: Comparisons – Compulsory Leavers

Comparisons for compulsory leavers including those leaving on redundancy to cease with effect from 6 Jan 2014.

Introduction of New Pension Codes for OF2 OCFRs

Background

9. The Pension Codes set rates of pension for all ranks including OR9s and OF2s based on the prevailing rates of pay for each rank, using a representative rate. While the representative rates are intended to provide a 'fair for all' approach it can be argued that for an OCFR the position is different. Given their long service in the ranks, if they leave at or after the 5 year point of their commission, the OF2 rate they are entitled to be awarded under the current harmonised rules may not be sufficient to recognise the service they have given.

10. The current harmonised rules in Part D allow for the amount of immediate and preserved pensions to be awarded by reference to the Pension Codes in force on the last day of pensionable service for the rank and length of reckonable service the member has – Rules D5 and D12 refer:

D.5 Amount of immediate pension: other officers

- (1) This rule applies if—
- (a) a member is entitled to a pension under rule D.1;
 - (b) the member's pension rank is that of OF-1 or above;
 - (c) rule D.4 (officers of or above OF-7 rank) does not apply; and
 - (d) the ill-health condition is not met.
- (2) Subject to the following provisions of this rule and rule D.10 (increase at age 60 or 65), the annual amount of the pension is the aggregate of—
- (a) the amount specified, for a person of the member's pension rank with the number of whole years' reckonable service that the member has, in the relevant table in the pension code in force on the member's last day of pensionable service; and

D.12 Overall pension amount

(1) In rule D.11 “the overall pension amount” means—

(a) if the member’s pension rank is that of OF-7 or above, the relevant percentage of the member’s final pensionable earnings;

(b) otherwise, the aggregate of—

(i) the relevant percentage of the full career pension, multiplied by the number of years’ reckonable service that the member has; and

(ii) if rule D.13 or D.14 (rank addition) or rule D.15 (professional supplement) applies, an additional amount calculated in accordance with that rule.

(2) For the purposes of paragraph (1) the relevant percentage is—

(a) if the member’s pension rank is that of OF-7 or above, that specified for a person of the member’s pension rank, with the amount of reckonable service that the member has, in the pension code in force on the member’s last day of pensionable service;

(b) if the member’s pension rank is between OF-1 and OF-6, 3%;

(c) otherwise, 2.75%.

(3) In paragraph (1)(b) “the full career pension” means the amount specified, for a person of the member’s pension rank with the relevant amount of reckonable service, in the relevant table in the pension code in force on the member’s last day of pensionable service.

New Pension Code – OF2 OCFR – 5 years plus

11. The pay rates include a scale for Late Entry Officers, which is set at a higher rate than for OF2. These rates are applicable at the point of commissioning from the ranks. To provide a tangible link between pay and pensions for OCFRs a new representative rate will be introduced from 6 Jan 2014 for both regular members and those serving in a permanent cadre of the special forces who serve for more than 5 years of their commission.

Calculation of the New Code – Regular Members

12. The baseline calculations for the representative rate, which GAD have agreed, are 28.5% of the Late Entry Officer rates at level 10 for the 16 year point and 92% of the OF3 Level 9 for the 34 year point. The result produces pension rates that are slightly higher at the 19 year point than for an OR9 (22 years) with 3 x CSA. The new rates are only for OCFR OF2s who serve beyond the 5 year point, as soon as they are promoted they will move to the OF3 pension code. An OCFR would normally be promoted to OF3 between 5 and 8 years and the proposed rates ensure that the rates are at least as favourable as the OR9 + CSA rate but do not overlap with the OF3 rates.

Calculation of the New Code – Special Forces

13. The baseline calculations for the representative rate for the Special Forces are 28.5% of the Late Entry Officer SF OF2 rates at level 10 for the 16 year point and 99.2% of the OF3 Level 9 for the 34 year point.

Tapering

14. We have considered the need to taper the rates after the 29 year point but concluded that it is unlikely that we will use tapering as it will be a different approach to all other groups in the pension codes.

Preserved Awards

15. OF2 OCFRs leaving with a preserved award with 5 years or over commissioned service after the new rates are introduced will have their benefit calculated on the basis of the new pension code for OF2 OCFRs.

III Health Pensions

16. The regular OF2 invaliding rate exceeds the proposed OCFR PVR rate but not the OCFR compulsory rate. Therefore an invaliding code will need to be introduced for those leaving after the 5 year point. If OCFRs leave before then (with less than 5 years) they will default to an OF2 invaliding rate because the pension rank rule at A2 in the harmonised rules will use their actual rank for ill health, which should exceed the OR9 + CSA. A corresponding invaliding rate for SF will also be introduced.

Reassessment at age 60/65

17. For those leaving with at least 2 but less than 5 years with an OR9 + CSA award, the comparison at age 60/65 should remain as now with the comparison made with the OF2 rate. This is because the proposed OCFR OF2 rate will not apply to them as they will continue to default to an OR9 + CSA.

Commissioned Service Addition (CSA)

18. The 9 years maximum for CSA was removed from the current rules when they were harmonised. Given that comparisons between OR9 + CSA and OF2 will cease from 6 Jan 14 the maximum CSA that can be awarded at OR9 rates will be 5 years as it is only intended to be awarded to OCFRs leaving with 2 but less than 5 years. New rates below OR9 will be introduced for OCFRs with at least 1 year commissioned service.

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