

29 May 14

VCDS through DG Pers

Copy to:

CDP DG Fin AG

OVERPAYMENT OF RECRUITING AND RETENTION PAY (FLYING) (RRP(F))

Issue

1. Update on the erroneous overpayment of c£829K RRP(F) to 152 serving aircrew and to a number of (now) retired aircrew since 2007, to inform VCDS' visit to Wattisham Station on 30 May.

Recommendation

2. VCDS notes that:

- a. RRP(F) overpayments, varying in range from c£47 to c£33.5K per individual, have arisen through misapplication of complex policy¹ both before and after JPA automation in Apr 07. Of the 152 serving aircrew affected, **10 officers and 15 ORs** serve in Wattisham Station units.
- b. A 100% scrutiny of RRP(F) has been undertaken. All serving aircrew (c605) are now on the correct rate of RRP(F) and effective management processes are in place to prevent a recurrence of this nature.
- c. The Army Manning Pinch Point Register includes AAC Direct Entry Captain and Major aircrew and Qualified Helicopter Instructors (QHI), with some aircraft types having acute manning problems and a noted increase in aircrew voluntary outflow².
- d. The Army TLB is clear that recovery action of any sort is not appropriate in this instance and VFM, public interest and operational capability considerations dictate that the overpayments should be written off in bulk. A DIA review of RRP(F) in 2013 also highlighted the risks associated with it not being written off, including with regard to aircrew retention and operational capability and the increased training costs to meet the potential shortfall.
- e. DBS's view is that the write off of RRP(F) should be considered on a case by case basis; there is concern that to do otherwise might set a precedent which would undermine the consistent application of principles in future cases and invite appeals from Service personnel who have previously had money recovered.
- f. This case has highlighted that Departmental procedures for processing write-offs of pay and allowances are not in step with the post-Levene delegations that the TLB has received. The Army is of the view that if the FLC TLB holder is allocated a control total to deliver an agreed level of capability then it should be the proper authority to make group writes-off decisions on those rare occasions that they arise, as it is only the TLB that is able to properly evaluate the operational impact and overall VFM case.
- g. Should it be agreed that DG Fin will be the arbiter in exceptional cases of this nature³ (e.g. where the TLB considers that VFM and operational capability considerations are put at risk by routine recovery action), then we will make a case for write off action to him.

¹ As indicated in the DIA Report - Controls over the Payment of (RRP(F) dated July 2013 Audit Code: 3031/01/13.

² The outflow is exacerbated by a buoyant civil aviation sector: domestic (SAR, police, air ambulance, oil rigs, airlines) and international (i.e. Gulf States Armed Forces, airlines) Rotary and Fixed Wing contracts with competitive remuneration/benefit/working hour packages.

³ A decision is expected shortly in this regard.

Timing

3. Routine.

Background

4. RRP(F) overpayments have arisen as a result of misapplication of complex rules over a number of years. Whilst the application of the rules was automated with the introduction of JPA in Apr 07, some of the inconsistencies were not rectified, resulting in several SC by those who believed they were being underpaid. A full audit of RRP(F) was directed for all serving aircrew (i.e. c605 personnel), as well as a representative sample of those who had retired since Apr 07. Following the audit, action was taken to correct the pay accounts of all those affected and there are now effective management processes in place that will prevent any future recurrence of overpayments of RRP(F).

5. The Army Manning Pinch Point Register includes AAC Direct Entry Captain and Major aircrew and Qualified Helicopter Instructors (QHI). The majority of the 152 serving personnel affected are senior, experienced aircrew and include c53% of the Army's QHIs⁴. Three quarters of the cohort are also approaching, or beyond, their IPP or EDP hence in a better position to find employment in a buoyant civil aviation sector. There is a direct threat to the continued provision of Army Aviation combat capability for Defence and to the MOD's Air Safety mandated responsibilities if more experienced aircrew and QHIs decide to leave the Service.

6. The Army TLB is clear that recovery action of any sort is not appropriate in this instance. A decision to recover must be considered against the significant risks that experienced aircrew and QHI outflow⁵ would cause to Air Safety and combat capability and the longer term costs of training replacements⁶. There has already been an increase in VO since the debts have been placed on individual's pay accounts, with 15 pilots⁷ directly citing the incorrect payment as the deciding factor in their decision to leave the Army. An independent report commissioned by the DIA confirms this assessment⁸. The costs to Defence of generating aviation combat capability, already significant, would escalate as a direct result of these resignations. An AH QHI costs Defence £8.5M to generate - a cost to Defence of approximately 10 times the total value of the overpayments - and an ab initio AH pilot costs c£3.5M to generate over 4 years. The VFM, public interest and operational capability considerations dictate that the overpayments, which go back some years and have been held in suspense for months, should be written off. A DIA review of RRP(F) in 2013 also highlighted the risks associated with it not being written off, including with regard to aircrew retention and operational capability and the increased training costs to meet the potential shortfalls.

7. DBS considers that write off of RRP(F) should be considered on a case by case basis as there is concern that to do otherwise might set a precedent which would undermine consistency and fairness of treatment across defence. If RRP(F) cases were considered on an individual basis affected personnel will have a right of appeal and if the appeal was not decided in their favour they have the right to submit a SC. Given the protracted nature of this issue and the fact that many aircrew sought reassurance - and received it - that they were on the correct rate of RRP(F), there are clear indications that appeals and SCs would be forthcoming. This will place considerable demands on the already valuable time of COs (and the Chain of Command) who are required to process these complaints. It should also be noted that former AAC pilots who transferred to the RAF have successfully had a case argued on their behalf to be removed from further consideration for repayment.

⁴ QHI manning is at a current strength of 90 set against an AAC QHI liability of c109, representing a 17% shortfall.

⁵ In addition to costs associated with replacing aircrew who resign over this issue, it is fully expected there will be costs associated with legal challenges from aircrew who believe they received RRP(F) in good faith if recovery action is pursued.

⁶ A 'replacement' will not happen quickly due to the length of the recruitment and training pipelines.

⁷ From 1 Nov 12 to 9 Sep 13.

⁸ Ref A - Annex A para 4.2 states: "The investigation and the potential recovery action, had resulted in retention issues with increased numbers terminating their service citing this issue as the reason. In addition to the impact on manning liabilities this exodus also had significant cost implications".

8. This case has highlighted that Departmental procedures for processing them are not in step with the post-Levene delegations that the TLB has received. The Army is firmly of the view that if the FLC TLB holder is allocated a control total to deliver an agreed level of capability then it should be the proper authority to make group writes-off decisions on those rare occasions that they arise, where properly evidenced factors such as a direct and unacceptable impact on operational capability may override the purely financial and procedurally based decision to recover. Recognising however that DBS is responsible for administering and interpreting the functions of pay, bounties, allowances, expenses, charges and recoveries FL TLBs would - on every occasion - take due cognisance of their views of cases relating to potential group writes-off.

9. The issue of writes-off of exceptional cases (e.g. where the TLB considers that VFM/Public Interest and operational capability considerations are put at risk by routine recovery action) continues to be the subject of deliberation. DG Fin is taking a view as to whether he should be the arbiter across Defence; a decision is expected shortly. Should it be agreed that DG Fin will be the arbiter in exceptional cases of this nature then we will make a case for write off action to him.

DG Pers