

CHAPTER SIX

DISCIPLINED SERVICES SPECIAL ALLOWANCE AND TIME-OFF IN LIEU

Introduction

6.1 A specific issue of which we became increasingly aware in our familiarisation visits and discussions with the Police and in written submissions, was the question of overtime work. This topic has also been addressed in a number of written submissions. As we have so far studied the issues surrounding this particular problem in detail only in the Police Force, the comments and observations in this chapter relate only to the Police. We are continuing our inquiries to discover whether similar problems exist in the other disciplined services.

6.2 The basic principle for overtime arrangements as recommended by the 1971 Salaries Commission (see Chapter 15 of the Report of the Salaries Commission, 1971, paragraph 319) is that overtime worked should be compensated by time-off in lieu, unless this is impracticable. The same principle was endorsed by the Standing Commission in its Report No. 10 (paragraphs 2.3-2.6).

Definition of "conditioned hours"

6.3 Before the matters which are the concern of this chapter are examined we must define the term "conditioned hours". Civil Service Regulations (CSR) define conditioned hours as follows :-

CSR 540(a) "conditioned hours" means hours of duty which salary is calculated to cover and, for staff eligible for overtime allowance, the hours which must be worked before overtime allowance is payable;

6.4 A further definition relates to the disciplined services. It is :-

CSR 544 "The conditioned hours for members of the Correctional Service, the Customs and Excise Service, the Fire Services, the Immigration Service and the Royal Hong Kong Police Force (hereinafter referred to as the Disciplined Services) are governed by operational needs and are determined in relation to the total responsibilities of each Service, its complement, and the actual manpower situation at any time."

6.5 One further definition of conditioned hours for officers of the police force exists because of the need to designate officers who are eligible for the Disciplined Services Special Allowance (DSSA), and specify their hours. This defines the conditioned hours of Junior Police Officers (JPO), Inspectors (IP) and Senior Inspectors (SIP) as 51 hours per week. This period is calculated as being six 8½ hour duty periods, inclusive of meal and refreshment breaks.

The compensation schemes

6.6 Hours worked in excess of conditioned hours may be compensated for in two ways. They are :-

- (a) granting time-off in lieu of hours worked; and
- (b) payment of DSSA or Standby Duty Allowance (SDA).

6.7 DSSA may be paid only if it is not practicable to grant time-off and is payable only to eligible officers i.e. JPOs, IPs and SIPs.

Time-off

6.8 Time-off in lieu is granted to compensate for :-

- (a) working extended hours; and
- (b) working on public holidays.

Working extended hours can, in certain circumstances, attract DSSA if the granting of time-off is found to be impracticable. Working on public holidays can be compensated for only by granting time-off in lieu.

6.9 The administration of time-off in the police force is governed by Police General Orders (PGO) specifically PGOs 8-05, 8-06 and 8-09. Copies of these PGOs are at Annex 6.1.

Disciplined Services Special Allowance

6.10 The administration of DSSA within the police force is governed by PGO 4-11 a copy of which is at Annex 6.2. CSRs 678-682 are also relevant and are at Annex 6.3.

6.11 Before 1973 no officer in the police force received any allowance in compensation for working additional hours. Time-off was the only compensation. In 1973 an Additional

Duty Allowance (ADA) was introduced for JPOs to compensate them for the additional hours they were required to work as a result of a manpower shortage then being experienced by the Police Force.

6.12 In 1980, in recognition of a similar problem affecting the inspectorate, an honorarium was introduced to compensate IPs and SIPs for additional hours worked.

6.13 As a result of the Standing Commission's Report No. 10 the two forms of additional duty allowance were, in 1985, incorporated into DSSA. This drew together into one allowance the various forms of additional duty allowances paid to the police and the other disciplined services.

6.14 The rationale for the introduction of DSSA is contained in para. 3.18 of Report No. 10, which states :-

"After careful consideration, we have reached the view that the disciplined services should not be eligible for normal overtime allowance as payable to other grades because of the nature of their work and because their pay scales already take into account the requirement to work some overtime. Nevertheless we accept that circumstances may arise where disciplined staff are required to undertake extra duties over and above those which may reasonably be expected to be part of their normal work, and we consider that this ought to be compensated. The situation is analogous to that of staff outside the disciplined services who are not eligible for overtime allowance but may be compensated for extra work performed by the payment of an honorarium. To cater for this and to rationalise the existing practices, we recommend that all the allowances at present payable to staff of the various services for extra duties should be abolished and replaced by a single Disciplined Services Special Allowance."

The effectiveness of the compensation schemes

6.15 In examining the effectiveness of the compensation schemes we asked the Police Force Management to conduct a survey. The survey was confined to assessing effectiveness in compensating officers who are eligible for DSSA. Two factors have to be considered. They are :-

- (a) the availability of compensation; and
- (b) the value of the compensation.

Availability of compensation

6.16 Time-off as a means of compensation can be placed on an officer's time-off card promptly and easily and could therefore be said in principle to be readily available to eligible officers. The true test of availability is however not how readily it is given but how readily it can be taken. In practice, officers regularly have difficulty in taking the time-off credited on their cards, because operational needs preclude this.

6.17 Annex 6.4 shows how much time-off is accumulated in the police force. It will be noted that the amount of time-off owed to officers in all the eligible ranks is considerable. Much of this accumulation results from a need to grant time-off because DSSA could not be paid for the period of additional duty, even though the duty may have qualified for the payment of the allowance. The following paragraphs examine the reasons for this situation.

6.18 An overriding consideration in the payment of DSSA is that it may only be paid if compensatory time-off cannot be given within a reasonable period (normally one month) or within the same cycle of a shift system. This proviso applies equally to the overtime allowance payable in the rest of the civil service.

6.19 Given the operational commitments of the police force, time-off can in practice rarely be given within the stated periods and most periods of additional duty would therefore qualify for DSSA. In practice budgetary constraints placed upon formation commanders regularly preclude the payment of DSSA up to the approved maximum of 60 hours per month. The result is that time-off has to be credited in the knowledge that it probably cannot be taken within a reasonable period, if indeed at all.

6.20 A further restriction is imposed on the payment of DSSA by limiting the duties for which it is payable to the following :-

- (a) investigations, enquiries and operations in Crime Formations and Special Branch (SB);
- (b) other unavoidable enquiries and operations which cannot be completed during normal duty hours;
- (c) attendance at court;
- (d) internal security call-out;
- (e) special operations (e.g. squatter clearances, anti-illegal immigration);

- (f) festivals and similar occasions requiring crowd control;
- (g) parades; and
- (h) other duties approved by the Deputy Director of Personnel.

The restrictions are intended to operate as a control on the amount of extra hours worked by laying down guidelines for formation commanders as to the types of duty Force management expect will require extra hours to be worked. The intention is not specifically to preclude payment of DSSA for extra hours worked in the course of ordinary duties but, in accordance with the requirement of strict control over the payment of the allowance, to establish the areas to which priority should be accorded in approving extra hours of duty. With a limited budget the effect is that DSSA is not paid for extra hours worked other than within the categories specified.

6.21 The restrictions have the effect of ruling out all Uniform Branch officers, with few exceptions, from claiming DSSA. They prevent, for example, an officer of a Patrol Sub-Unit from claiming DSSA for any additional hours he may spend after his shift period in preparing summons applications, processing his fixed penalty tickets etc. DSSA is therefore largely an allowance for Crime Formations, Special Branch, and, to a lesser extent, the Police Tactical Unit. In Marine Region, DSSA is available to uniformed officers for different reasons related to shift patterns. SDA is payable only in very limited circumstances.

6.22 Two additional restrictions are placed on IPs and SIPs who must work 24 hours additional duty before they can claim DSSA, and by restricting the amount they can claim in a month to the difference in their salary point and the penultimate point on the CIP scale.

The value of compensation

6.23 Time-off is reckoned at an hour off for an hour's extra work. DSSA and SDA are paid at 1/210th of monthly salary which is also roughly equivalent to single time.

6.24 Overtime allowance for the rest of the civil service, other than the disciplined services, is paid at a rate of 1/140th of monthly salary which equates to about time and a half.

6.25 We understand the argument which led the Standing Commission to decide in 1985 that payments of DSSA should be single-time, rather than the time and a half to which the

remainder of the civil service are entitled, to be this: the police and the disciplined services had not in the past been entitled to overtime allowance because their pay was calculated on a basis which allowed for a measure of extra duty (see para. 6.14 above). Any payment to compensate for additional duties should therefore be considered the equivalent of the overtime honoraria paid to grades normally expected to work extra hours without payment for overtime and payable at single-time rates.

Budgetary constraints

6.26 The amount the police force can spend in total on DSSA is determined in advance by the normal budgetary process. The total sum is then subdivided into allocations to Headquarters and Regional formations, and then further subdivided to provide allocations to subordinate formations. Each formation commander is expected to contain his expenditure on DSSA within the allocation he has been given. Annex 6.5 shows the estimates for 1988-89 and the distribution to major formation commanders of the funds eventually allocated.

6.27 To illustrate the outcome of the application of the rules governing the payment of DSSA and budgetary allocations let us take a typical busy CID unit, at any level. In that unit, because of the demands of case work, members of staff entitled to DSSA will regularly work extra hours of 60 or more per month, and similarly because of the demands of the work, the unit commander will seldom be able to grant compensating time-off in lieu. Under the DSSA rules by themselves he would be able in theory to authorise paying each officer who was entitled to it a full 60 hours DSSA in any month. Extra hours beyond 60 could be paid for only under special authority.

6.28 In practice, it appears that allocations made to subordinate formation commanders have not been sufficient to match the total amounts which under the rules their staff would be entitled to receive. As a result, some commanders have felt obliged to adopt the practice of restricting the payment of DSSA, regardless of entitlement, according to their estimates of how much they can afford. A not uncommon result would be for a formation commander to have to restrict the maximum payment of DSSA in any one month to 45 or even 35 hours, regardless of the actual entitlement.

6.29 A different anomaly occurs in Marine Region. Seagoing officers work special shift patterns, of which one example is three days on followed by three days off. When on board they stand watches, of varying patterns: a typical pattern would involve being on watch for half of their time on board; but while off watch they are at their place of duty and available for duty on call, a state normally regarded as

qualifying for pay at the standard hourly rate. On that basis (ignoring leave) they might be regarded as working about 360 hours per month, against conditioned hours of 51 per week, say about 221 per month. In the absence of a specific arrangement to pay for Marine shift duty, this pattern of shift work is currently being compensated at 35 hours per month DSSA, the quantum being derived from the financial allocation that Force management has allocated to Marine for DSSA. It is conceivable that this is a fair result, since the shift pattern may in some respects be one of the less stressful ones in the Force (many land-based officers would be pleased to have 3 continuous days off in every 6), but it is an inappropriate application of the DSSA rules.

6.30 We do not believe that the financial control system is meant to work in these unsatisfactory ways, but we can only report what we have found. Our understanding is that requests for supplementary provision will be entertained only if they are based on events that could not be foreseen. Claims for additional allocations to meet a need to pay DSSA which could not be met from the existing allocation would not be regarded as based on unforeseeable problems.

6.31 Problems of this sort may not be confined to the disciplined services; but we suspect they can most readily arise in the disciplined services where the staff are under discipline and under the command of their superior officers in a way not paralleled in civil departments. We understand that in the Water Supplies Department, Electrical & Mechanical Engineering Department and Urban Services Department, the three non-disciplined departments with the largest overtime budgets, no-one entitled to overtime payments works any overtime for which he does not either receive the payment to which he is entitled or, alternatively, get time-off in lieu.

6.32 Our purpose here is not to apportion blame, nor do we intend to suggest specific changes before completing our Review. However, on the basis that staff should be properly compensated for the work that they do, we consider that current rules and practice in the use of DSSA do not appear wholly appropriate to the circumstances in which the Police work and that the matter requires further careful consideration. Where time-off can be given (not merely credited) it is clearly preferable that this should be done, and we believe the Force should make strenuous efforts to promote the use of time-off. Where it cannot be given, the rules should not unjustly limit the payment of DSSA.