MUTUAL BENEFIT FUND
AIR TRAFFIC CONTROLLERS

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Overview of Proposed Rule Changes – August 2024

The MBF is conducting a vote for rule changes detailed in this document. We ask you to vote for these changes to make the Fund more robust in changing times. These changes are all aimed at the same issues (complying with expert advice and cost control), so it will be a single vote for the package.

First a bit of history for newer members. We've tried to keep it brief. If there are questions, please email the office at office@atcmbf.org.nz and we'll get back to you.

The ATC Mutual Benefit Fund is just that: it was set up in 1991 to be a *mutually beneficial entity* to which Airways and all controllers contribute. It's independent. It's run by controllers with expert assistance. It looks after any member whose ability to earn ceases due to loss of medical certificate, or in some circumstances it looks after your dependents. It does this at a fraction of the cost of income insurance. It is a valuable and fragile thing and must be carefully looked after so it can be there for you in the future.

Periodically the trustees initiate an actuarial review by independent experts to determine what value the Fund needs to be to continue as a stable financial entity. It also extrapolates what value the Fund needs to be in future years. The latest review in the second half of 2023 has suggested the need for some rule changes to protect the future viability of the Fund and state limits of the rules more clearly where liability is considered a little hazy.

The Fund is having to spend more on expenses and member benefits and is having to contend with changing member behaviour. Required changes are detailed below. The opportunity has also been taken to correct some spelling and typo issues and adjust for names of changing legislation.

Attached to this email is a set of "tracked changes" rules showing the proposed changes within the rules to provide context. We will email a new finalised copy of the rules after the vote.

Proposed Rule Change to provide for an increase in member contribution rates.

Refer to Rules 5.1 and 5.8.

While the trustees have no current plans to increase member contributions, the recent actuarial review recommends the rules are altered to allow this if it becomes necessary.

Effect of proposed rule

Provides a mechanism to increase Member Contributions beyond the current maximum of 0.85% of gross salary to a maximum of 1.5%.

Airways contribute to the Fund as well but there is no mechanism to increase that amount for now. Airways contribution rates are governed by the Trust Deed which details the relationship between the Fund and Airways. Attempting to change or discuss that Trust Deed with Airways would not be prudent and the Trustees have no intention of opening the issue up. Airways contribution as a percentage of pay remains within a range of 0.3-3% of base pay per member. The actual percentage is set each year by the trustees. At present and for the foreseeable future this rate is set at the maximum of 3%. Naturally the amount of income generated by this increases as controller income and numbers increase. This currently sees Airways contribute about $1.4 million a year.

Proposed additional discretionary restriction on the Fund's liability

Refer to new Rule 6.8.7.

Effect of proposed Rule

The Fund has never accepted liability for situations resulting from failure to qualify or maintain an ATC qualification, or for disciplinary process. Occasionally though, members in those situations have improperly tried to use the Fund as a financial fall back rather than address those issues as a contract and workplace issue via NZALPA. The trustees propose adding to Rule 6 to detail a further situation where benefit payments will be at the discretion of the trustees. This relates to where the loss of licence is not caused by a health issue but which is substantially due to workplace issues such as performance or competency and where the member is responsible for the performance or competency issues. In terms of trustee discretion this is no change from how the Fund has operated from its inception, but it is appropriate to clarify it via a rule so members know where they stand.

Proposed Rule Change around timing of Capital Benefits

Refer to Rule 7

The ATC MBF has always operated with return to work as the preferred outcome. If this is not possible, then payment of a capital benefit (the total remaining benefit) can eventually be considered (unless the claim is classified). The timing of when this lump is paid, or whether a lump is paid at all, is at the discretion of the trustees and has always been. In most cases it is more appropriate to just pay fortnightly benefits until the capital benefit (CB) is exhausted. Recently the trustees have been tending to extend the period before a lump sum is paid to protect the financial position of the Fund.

Rule 7.9 says trustees *may in their discretion* consider a lump sum payment after 24 months. In the interests of setting the expectations of members at a reasonable post claim interval, the trustees seek to change this period to 48 months.

This will not alter Rule 7.10 which allows for compassionate or other compelling grounds to pay out earlier.

Effect of proposed rule

Trustees will not automatically consider a payout of remaining CB until 48 months have elapsed. No material change to current practice.

Proposed Rule to introduce a waiting period after claim before benefits are paid.

Refer to Rule 7 definitions, Rule 7.8 and Rule 7.13.

Expectation around sick leave.

For the first 25 years of the operation of the MBF it was unusual to have a member make a claim with no sick leave. Yes, the environment is different these days and yes things like COVID have changed the playing field markedly. We aren't planning to get into a discussion on that except to say that attitudes around taking sick leave changed for the worse long before COVID came along. The idea of accumulating a sick leave balance to use in the event you lose your medical certificate seems to have lost currency to the point many recent claimants turn up with a zero or near zero Sick Leave balance causing them to try to claim on the Fund immediately when they lose their medical.

The Fund is not set up to rapidly approve claims and pay benefits. It has always been the expectation that you are able to support yourself for several weeks before you are desperate for income. It can take days or weeks just to get the required paperwork from the CAA and/or medical information to support your claim. Each trustee must approve each claim – and the trustees may have questions before they approve expenditure of the money that belongs to all of us. That takes time and care.

Most members who present with zero sick leave do so for valid reasons, and we intend to look after them. But we have reason to believe some members use sick leave frivolously. In effect they are *using the Fund as another leave balance*. That was not contemplated in the design of the Fund, is not keeping faith with the principles of mutuality and is a misuse of the money collectively saved by controllers to defend us against long term ailments.

Effect of proposed Rule.

When a medical certificate is lost and an MBF claim is made, payments can be made from the "entitlement date" (date of loss/suspension of medical certificate) after sick leave is exhausted. This rule change will impose a waiting period so that no payment will be made until the later of 20 calendar days from the entitlement date or once the member has used up their paid employee sick leave entitlement. If a member presents with no sick leave, they will need to cover the shortfall using annual leave or DILs, or request the trustees consider reducing or removing the stand-down under hardship (rule 7.13).

The Trustees have enough discretion under the rules already to do this on a case by case basis. But we would again rather be open and clear about the problem. We hope to never have to use this rule – but that is up to you, the members. Please think about it.

Proposed Transitional Rule for members on claim.

Refer Rule 30.1

Effect of proposed rule
The proposed new rules would not affect members on claim at the time the new rules come into effect.

In conclusion

The rules allow and require a broad latitude of discretion by trustees in the running of the Fund and we routinely use that discretion to do what needs doing. But we would rather be transparent and ensure that the Rules are a reasonable reflection of how the Fund will operate.

Finally, there was one other recommendation that the 2023 review made. It suggested to grow the Fund quickly to its optimal level, the trustees reduce the size of the Capital Benefit. The trustees spent considerable time discussing this and produced the necessary rule changes to enable this to occur. This would result in the Capital Benefit being reduced from 4 to 3 times gross salary.

However, the trustees consider that the Fund is currently growing at an acceptable rate and have therefore deferred this rule change for now. So long as the Fund continues to grow, this rule change will not be required, but it is available if circumstances change.

We recommend you vote for these proposed rules to ensure the Fund can continue to support Air Traffic Controllers into the future.

Regards
The Trustees