



Australian Government
Defence Force Remuneration Tribunal

DECISION

Defence Act 1903

s.58H(2)(a)—Determination of the salaries and relevant allowances to be paid to members

SUBMARINE: CAPABILITY ASSURANCE PAYMENT

(Matter No. 14 of 2015)

THE HON. A. HARRISON, PRESIDENT

THE HON. A. BEVIS, MEMBER

CANBERRA, 29 JANUARY 2016

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] This decision arises from an application made by the Australian Defence Force (ADF) pursuant to s.58H of the *Defence Act 1903* to develop a suite of measures specific to the submarine workforce with the purpose of addressing sustainability challenges.ⁱ

[2] In affiliation with this application Navy have developed the Submarine Workforce Growth Strategy 2014 -2025 (SWGS) which intends to “*achieve an expanded submarine workforce with the strength, composition and disposition to fully exploit a potent and enduring submarine capability now and into the future achieving net growth, including through consistent provision of the right number of quality people, while increasing levels of experience*”.ⁱⁱ

[3] The ADF propose a Submarine Deliberately Differentiated Package (SM-DDP) which seeks to provide an increased workforce through the impact of seven key components, including a ‘Submarine Capability Assurance Payment’ (SM-CAP), and is anticipated to achieve an “*enduring and strategically designed*” remuneration package for submariners.ⁱⁱⁱ

[4] This application was heard in Canberra on 1 December 2015. During the hearing Mr J. Phillips SC appeared for the ADF and Ms S. Creagh for the Commonwealth.

[5] The following witnesses were called by the ADF:

- Commodore (CDRE) P. Scott CSC RAN, Director General Submarine Capability.
- Commodore (CDRE) M. Miller RAN, Director General Navy People.
- Captain (CAPT) M. Buckley CSC RAN, Commander Submarine Force.
- Mr P. Jennings PSM, Executive Director, Australian Strategic Policy Institute.
- Lieutenant (LEUT) A. Clay, Weapons Electrical Engineering Officer.
- Lieutenant (LEUT) J. Gleeson, Submarine Operations Watchkeeper.
- Leading Seaman (LS) A. Bullock, Acoustic Warfare Analyst Submarines.

Background

[6] The submarine workforce has experienced significant attraction and retention challenges over a substantial period. A number of previous Tribunal matters in regard to submarine related allowances have sought to address these issues.^{iv}

[7] In the more recent past, workforce briefings to the Tribunal^v have indicated an acute lack of depth in the workforce with some categories being rated as ‘perilous, critical or at risk’. Despite recent “*modest growth*”^{vi} it is submitted by the ADF that the submarine workforce remains substantially under strength, fragile, and highly susceptible to numerous factors including fluctuations in recruitment, retention and submarine availability.

Submissions

[8] The ADF submit that the proposed SM-DDP provides the “*best combination of enhancements to address work/life balance, career/promotion prospects and incentives to attract and retain personnel in the submarine capability and achieve the SWGS intent*”.^{vii}

[9] The seven components which constitute the SM-DDP are:

- a. enhanced career management;
- b. improved career opportunities;
- c. leave remediation measures;
- d. block leave periods for submariners;
- e. a fully staffed Submarine Support Group;
- f. special consideration for officer’s promotion; and
- g. the SM-CAP.^{viii}

[10] Of the components listed above, only the SM-CAP is within the jurisdiction of this Tribunal. The ADF seeks to establish an SM-CAP that is:

- a. paid to qualified submariners who meet Personnel Proficiency Levels 1,2 or 3;^{ix}

- b. paid as a lump sum completion payment at the start of each calendar year based on the previous years' service (pro-rated);
- c. comprised of tiered rates of payment based on accumulated service posted to a submarine after achieving qualification^x as follows:
 - i. less than 3 years qualification - \$15 000;
 - ii. 3 to 6 years post qualification - \$25 000;
 - iii. 6 to 9 years post qualification - \$40 000; and
 - iv. 9 or more years post qualification - \$50 000.
- d. paid as soon as practicable from January 2016; and
- e. not subject to Workplace Remuneration Arrangement increases.

[11] The ADF intends to measure the effectiveness of the SM-CAP as a component of the SM-DDP using key performance indicators^{xi} of:

- a. net growth: the uniformed submarine workforce continually meeting workforce growth requirements;
- b. provisioning: the total strength of qualified personnel entering the submarine arm meets demand;
- c. proficiency: total strength of qualified personnel available for sea service exceeds total demand;
- d. wastage: a loss of personnel rates that support requisite net growth;
- e. initial training: the total number of quality personnel commencing submarine training meets demand; and
- f. leave debt: the average number of leave days outstanding.

Secondary measures^{xii} will include:

- g. increased category health and a reduction in the number of perilous, critical or at risk categories;
- h. reduction or eradication of branch/category targeted retention bonuses including individual retention bonuses (IRBs); and
- i. increasing length of submarine careers and propensity to remain in the submarine capability.

[12] The Commonwealth supports the ADF proposition to introduce the SM-CAP and endorses the eligibility criteria, calculation, methods of payment and proposed commencement.^{xiii}

[13] The Commonwealth submits that its “*key reasons for support include the enduring, strategic nature of the complete SM-DDP package and the considered workforce consultation that has informed the development of the SM-DDP*”.^{xiv}

[14] Additionally the Commonwealth submits that the key performance indicators established by the ADF should include:

- a. reference to the effects committed to in the SWGS; and
- b. an in-depth review of the SM-DDP, including the SM-CAP, to be undertaken in four years, following an interim review at the two-year anniversary of introduction.

Evidence

[15] Evidence in regard to some aspects of this matter was taken under separate classified arrangements and will not be reproduced in this written decision.

[16] Data encapsulated from a research survey conducted by Navy, and compiled from 429 Permanent and Reserve Force submariners,^{xv} was produced which showed that Permanent Navy members rated their ‘reward’ package noticeably higher in importance than all other attributes, followed by bonus enhancements and work-life balance.^{xvi}

[17] Evidence was provided in affidavit and in hearing from all witnesses and is summarised below:

CDRE Peter Scott CSC RAN, Director General Submarine Capability.

[18] In written evidence CDRE Scott confirmed that the “*submarine workforce is substantially below requisite strength*”. He stated that “*substantial shortfalls...exist and have been a perennial problem*” and that “*on a number of occasions over the past decades, targeted initiatives were put in place to address this problem. However, these...have not amounted to a cohesive, long term, Navy led strategy*”. CDRE Scott confirmed they have “*been successful on a short term or isolated basis but the problem persists*”.^{xvii}

[19] CDRE Scott gave evidence about the significant shore-based influences and activities critical to the support and operation of the submarine fleet and which he considers should be addressed in conjunction with the application. These elements include:

- a. waterfront administration and support;
- b. individual and collective training;
- c. operational command, control and support;
- d. acquisitions and sustainment;
- e. workforce and personnel management;
- f. strategic leadership, capability management and policy; and

g. Service in the wider Navy and the ADF.^{xviii}

[20] CDRE Scott stated that, in his view, the SM-DDP was “*well-constructed, offering a raft of incentives which are likely to apply and appeal, to varying degrees, to different members across the Submarine Arm*”. In expanding on the SM-CAP in particular, CDRE Scott stated that the financial measure “*places an appropriate premium on sea-going submarine experience but also acknowledges and values the contribution of submarine experience and expertise in capability related roles and functions both ashore and at sea*” and “*establishes a meaningful remuneration differential across the whole of the Submarine Arm*”.^{xix}

[21] In relation to IRBs, CDRE Scott gave evidence that the application of these had caused “*unintended divisiveness and friction*” in an environment where “*while the roles are and responsibilities will differ, the hardships, challenges and risk of exposure to harm...are shared equally, regardless of rate or rank, to a much greater extent than in any other platform*”.^{xx}

[22] In oral evidence CDRE Scott outlined a number of future operational challenges that face the submarine arm including force structure, the expansion of the submarine fleet and the subsequent simultaneous operation of two classes of submarine.

CDRE Michele Miller RAN, Director General Navy People.

[23] CDRE Miller expanded, in written evidence, on the development of the SM-DDP and the need for such a ‘package’ to be developed in specific relation to the submarine arm because “*the number of critical categories in the submarine workforce and the strategic capability implications were compelling and beyond the impacts being experienced in the surface fleet*”.^{xxi}

[24] CDRE Miller remarked that the SM-CAP is “*an active incentive and measure to keep people beyond their current intention to stay within the capability, not just providing them with the incentive to return to sea. It is a holistic approach*”.^{xxii}

[25] In oral evidence CDRE Miller outlined the intent, research and outcomes of the composition of the survey conducted within the submarine arm which looked at “*employment conditions and peoples’ propensity to stay*”. The survey outcomes informed the package of seven components making up the SM-DDP and were those considered to “*have the greatest influence on people’s propensity to stay and in particular shifting the propensity to stay from a bracket of one to three years into plus seven years*”.^{xxiii}

CAPT Matthew Buckley CSC RAN, Commander Submarine Force.

[26] CAPT Buckley gave evidence on the importance of the key support organisations and that (in the Submarine Support Group (SSG) for example) “*the members serve as an operational relief pool and provide direct support to submarines preparing for deployment and while deployed*”.^{xxiv} And further, that “*the ‘Training Authority Submarines’ [must have a] percentage of uniformed instructors [who] have recent submarine experience to ensure the training delivered reflects the requirement of the job at sea*”.^{xxv}

[27] CAPT Buckley stated that *“having a package which applies across the arm means we are not apportioning more weight to someone because they are at sea than someone that’s doing another very important job ashore; it’s the sum of the parts that creates the effect”*. He expanded on this stating that in his *“personal experience...when we had some [previous] schemes comes through they could be divisive because there’s an implication in some respects, or at least there’s a perception that some people have a greater work value than others [and that] any sort of package which doesn’t discriminate...is very important”*.^{xxvi}

Mr Peter Jennings, Executive Director, Australian Strategic Policy Institute,

[28] Mr Jennings gave expert evidence on the strategic importance of an Australian submarine fleet stating that *“it is essential that Navy’s recruitment, training and retention system for submariners is able to furnish sufficient numbers of personnel to ensure that a viable operational submarine capability is available at all times”*.^{xxvii}

[29] Further he expanded on the *“extreme end of complexity in all of the dimensions of the capability, from the vessel itself to the training of the crews, to the building of skills...associated with the fighting they do”*^{xxviii} and that, in his view, *“the fact that government is prepared to spend more money actually on the personnel themselves...shows that government appreciates the connection between the platform and the crew and the need for the two of them to be operating together in order to produce...submarine capability”*.^{xxix}

LEUT Andrew Clay RAN, Weapons Electrical Engineering Officer

[30] LEUT Clay gave evidence on his roles and responsibilities and stated that, after 10 years’ experience as Naval Officer, he felt was *“fully trained, qualified and useful to the Navy”* and at a level to *“have the ability to transfer the wisdom which I’ve gained...to those who are replacing me”*.^{xxx}

[31] He detailed the *“whole-of boat”* interaction of roles and responsibilities and considered that *“the technical complexity of a submarine is far greater than that of a surface ship [and] the minimum knowledge required of all personnel on board puts [personnel] well ahead of their peers in the surface fleet”*.^{xxxi} In oral evidence LEUT Clay explained that he considered IRBs to have *“caused angst”*^{xxxii} within the submarine arm.

LEUT Jody Gleeson RAN, Submarine Operations Watchkeeper

[32] LEUT Gleeson gave written and oral evidence in regard to her present ‘shore posting’ in a submarine support role. In this support organisation her responsibilities include *“monitoring information to be passed to submarines at sea as well as all matters concerning submarine operations”*. LEUT Gleeson stated that *“being a qualified submariner I have a better understanding of the operations and activities I am monitoring”* which allows *“me to determine what is relevant, understandable and required for the crew who are deployed [as well as a] better understanding of actual and potential submarine emergencies”*.^{xxxiii}

LS Arami Bullock, Acoustic Warfare Analyst

[33] LS Bullock gave evidence on the auxiliary roles he performs at sea in addition to his primary category. He detailed the complexities of his roles, specifically at sea, and the *“different skills...he is required to exercise dependant on the circumstances”*. LS Bullock

stated that, in his view, a payment that “*everybody got... would have a beneficial effect on people staying in the submarine arm and attracting people*”. He stated that IRBs had a negative effect on “*team spirit [because] it’s a team sport; everyone is required to take that boat to sea*”.^{xxxiv}

Quanta sought

[34] CDRE Scott gave evidence in regard to the quanta sought and explained that it was intended to be disproportionate throughout the tier points because “*we wanted to influence different parts of the workforce in different ways*”. As an example he outlined that, “*the \$25 000 tier relates to people with a certain amount of sea experience in the Navy [as] one of the key junctures at which we wanted to influence people’s propensity to stay. [The tiers] are shaped to help respond to propensity to stay when we need it the most*”.^{xxxv}

[35] CDRE Miller outlined the tier points set at various year marks and that approximately “*50 per cent of people leave... around about the eight year mark*”. Therefore the quanta was also intended to “*push them from the eight year mark to the ten year mark [which can] build that extra job that they might stay in for [and] that the \$15 000 quanta jump is intended to pull people through into the third tier to help them to make that active decision to stay longer in order to build our experience levels*”.^{xxxvi}

[36] In oral submission the Commonwealth acknowledged that “*a suggested quantum [the] ADF proposed would appear... likely to achieve the desired effect*”.^{xxxvii}

[37] We sought further clarification on the development of the quanta after the hearing. The ADF provided further advice^{xxxviii} from CDRE Miller that “*a deliberate decision was made to use a single, stand-alone annual completion payment*” which sat outside the Salary Related Allowance Review (SRAR). This was done in order to negate WRA increase application and also to maintain an “*understanding of the different purposes of the SM-CAP and Maritime Sustainability Allowance*”. Additionally, this evidence reported on the considerations given to previous schemes such as the Navy Capability Allowance^{xxxix} rate paid to submariners in 2008.

Considerations

[38] We note the plethora of studies and reviews into submarine service and accept that, while these have informed Navy and enabled a better understanding of the factors affecting the workforce, they appear to have had short term impact only. We accept that there remains a need to ameliorate these factors.

[39] We accept that service at sea in submarines is extremely demanding; emotionally, socially and physically. We considered the evidence that submariners are required to undertake extensive common submarine training outside their area of expertise to ensure safety and survivability and that all roles are multi-skilled and require a diverse level of expertise.

[40] We also accept the ADF submission that the purpose of the SM-CAP is somewhat different to other aspects of remuneration and recognition already in place. In this context we took into account:

- a. work value (which is recognised through pay placement);
- b. levels of general disability that are common to all members of the ADF (recognised through Service allowance);
- c. disability components (recognised through maritime disability allowance (MDA); and
- d. sustainability (recognised through maritime sustainability allowance (MSA)).

[41] We contemplated that there may be some cross-over in effect between allowances. However, we considered the differences to be based on the qualifying periods, as well as the fact that the allowance will apply across the submarine workforce and not just to those at sea. We accept the explanation given by CDRE Miller that the primary difference *“is that where MSA applies only to submariners serving at sea, the SM-CAP applies to all submariners in the capability at sea and ashore and is deliberately placed to encourage retention, attraction and re-attraction”*.^{x1}

[42] We considered the comparisons made with other Navies and note the comparators of the French, US, Japanese and UK submarine forces provided in evidence by CDRE Scott.

[43] We gave detailed consideration to the setting of the quanta and the tier points and accept that the payment rate was set outside the SRAR because it is intended to achieve a particular outcome. We are persuaded that, on balance, the quanta is more likely than not to influence, in a positive way, the outcome sought. Additionally we accept that the SM-CAP might encourage members to return to the submarine arm, or indeed, to the Navy.

[44] We note that the ADF seeks to retire all s.58B IRBs presently offered to some submariners and replace those with the ‘across-the board’ SM-CAP. We also note that a choice will be presented to allow members to be able to nominate to cease their IRB and instead take up the SM-CAP should they wish to do so.

[45] We considered and accept the performance indicators as proposed by the ADF. We propose to adopt the Commonwealth proposition for report backs to be conducted at the two and four year marks and set against the SWGS.

Conclusion

[46] The SM-CAP is a financial measure and one of seven components of the SM-DDP. It is the only component within the jurisdiction of the Tribunal. We accept that all seven components are intended to work together to achieve the impact sought. We accept the submission and evidence the SM-DDP is likely to provide for growth and retention of sufficient experienced personnel to allow workforce expansion in support of the SWGS.

[47] We are satisfied that the quanta of the SM-CAP component is, on balance, more likely than not to achieve, in a positive way, the outcome sought.

[48] We require the parties to report back in to us in January 2018 on the progress of the SM-DDP with a focus on the SM-CAP; with a further comprehensive review to be reported in January 2020.

[49] Determination 1 of 2016 gives effect to this decision.

THE HON. A. HARRISON, PRESIDENT
THE HON. A. BEVIS, MEMBER
RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

Appearances:

Mr J Phillips SC assisted by Ms S Robertson for the ADF

Ms S Creagh assisted by Mr A McKechnie for the Commonwealth

ⁱ Listing application – Submariner Deliberately Differentiated package – Capability Assurance Payment DMR/OUT/2015/20 dated 26 August 2015.

ⁱⁱ ADF 1 – Submarine Workforce Growth Strategy 2014 -2025.

ⁱⁱⁱ ADF 2 – Submarine Capability Assurance Payment Proposition – 1 December 2015.

^{iv} Matter 4 of 1986, 3 of 1999, 3 and 7 of 2001 – Submarine Service Allowance; Matter 1 of 2008 – Navy Capability Allowance; Matter 24 of 2012 – Review of Seagoing allowance and submarine allowance.

^v Service Workforce briefings – February 2015.

^{vi} ADF 2 page 7 paragraph 1.2

^{vii} ADF 2 page 8 paragraph 1.5

^{viii} ADF 5 - Affidavit of CDRE Scott dated 11 November 2015 page 12 paragraph 20.

^{ix} Submarine proficiency: (P1) – a qualified submariner who is posted to a submarine position, is medically fit for sea and available for sea postings immediately; (P2) – a qualified submariner who is posted to a submarine position but is medically unfit or unavailable for a period of less than 12 months to go to sea in a submarine; (P3) – a qualified submariner who is posted to a submarine position but is medically unfit or unavailable for a period of greater than 12 months to go to sea in a submarine. This also includes personnel who have been in a non-submarine position for greater than 12 months but less than 36 months.

^x Submarine sea qualification known colloquially as ‘gaining their dolphins’.

^{xi} ADF 2 page 37 paragraph 5.17

^{xii} ADF 2 page 58 paragraph 7.27

^{xiii} CWLTH 1 – Commonwealth submission Submarine Capability Assurance Payment dated 16 November 2015.

^{xiv} CWLTH 1 page 4 paragraph 25.

^{xv} ADF 3 – Research data – Submariner.

^{xvi} We sought clarification on the details of the proposed bonus enhancements mentioned in the survey and accept that no remunerative amounts were indicated

^{xvii} ADF 5 page 4 paragraph 10

^{xviii} ADF 5 pages 5 – 7.

^{xix} ADF 5 page 12 paragraph 20.

^{xx} ADF 5 page 13 paragraph 23.

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- ^{xxi} ADF 6 - Affidavit of CDRE Miller dated 12 November 2015 page 4 paragraph 14.
- ^{xxii} ADF 6 page 8 paragraph 31.
- ^{xxiii} Transcript 1 December 2015 page 39.
- ^{xxiv} ADF 7 Affidavit of CAPT Buckley dated 23 October 2015 page 2 paragraph 7.
- ^{xxv} ADF 7 page 4 paragraph 13.
- ^{xxvi} Transcript page 53.
- ^{xxvii} ADF 10 – Letter from Mr Jennings Matter 14 of 2015 – Submarine Capability Assurance Payment - of 18 November 2015.
- ^{xxviii} Transcript page 68 lines 4 – 14.
- ^{xxix} Transcript page 67 lines 22 – 26.
- ^{xxx} Transcript page 90 lines 25-27.
- ^{xxxi} ADF 8 – Affidavit of LEUT Clay dated 15 October 2015 page 4 paragraph 10.
- ^{xxxii} Transcript page 61 line 29.
- ^{xxxiii} ADF 12 – Affidavit of LEUT Gleeson dated 20 October page 3 paragraphs 10 and 11.
- ^{xxxiv} Transcript page 73 lines 20 – 26.
- ^{xxxv} Transcript page 34.
- ^{xxxvi} Transcript page 40.
- ^{xxxvii} Transcript page 86 line 11.
- ^{xxxviii} Letter –Additional information re rates selected - DMR OUT/2015/37 dated 8 December 2015.
- ^{xxxix} DFRT Matter 1 of 2008 – Navy Capability Allowance.
- ^{xl} ADF 6 page 7 paragraph 28.