



Australian Government
Defence Force Remuneration Tribunal

DECISION

Defence Act 1903
s.58H—Functions and powers of Tribunal

ROYAL AUSTRALIAN NAVY: RETENTION INCENTIVE PAYMENT (Matter 2 of 2019)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 6 MAY 2019

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

[1] This decision arises from a listing application¹ made by the Australian Defence Force (ADF) under section 58H of the *Defence Act 1903* (the Act) in regard to a range of workforce retention initiatives being proposed by Navy, one component of which is a short-to-medium term financial retention incentive payment to be offered to eligible mid-rank officers and sailors from 1 July 2019.

[2] A hearing in this matter was held on 3 April 2019 in Canberra. Mr J. Phillips SC appeared for the ADF and Ms A. Sullivan for the Commonwealth. The Deputy Chief of Navy, Rear Admiral M. Hammond AM RAN, and the Director General Maritime Operations, Commodore M. Buckley CSC RAN, appeared as witnesses.

Background

[3] The majority of Naval employment categories have a liability to serve in sea-going vessels, with compounding layers of experience and skill levels required in any platform. This requires members to undertake multiple sea postings throughout their career in order to acquire the requisite experience and skills and maintain Navy's capability.

[4] Presently, the numbers of members leaving the Navy, or being unwilling to return to sea after their initial obligation period, has resulted in workforce ‘hollowness’² in the mid-ranks which is now threatening the ability of Navy to meet government tasking and the delivery of capability.

[5] The Tribunal has frequently been made aware of the scope of workforce issues facing Navy. In addition to Matter 7 of 2018 – *Maritime Allowances Review*,³ Navy has provided annual workforce briefings and most recently, in October 2018, facilitated an inspection by the Tribunal of HMA Ships *Canberra*, *Newcastle* and *Yarra* alongside in Sydney to discuss these issues with personnel serving in those units.

Submissions

ADF

[6] The ADF proposes a ‘two-pronged’ approach to address Navy’s challenging workforce hollowness issues:

- a. a short-to-medium term financial incentive to increase the length of service of current Navy members serving in the mid-ranks; and
- b. a suite of non-financial incentives to encourage members to serve beyond their initial minimum period of service.⁴

[7] The retention incentive payment will be paid as a completion payment to members who, in the preceding 12 months prior to their seven, eight or 12 years of accrued ADF service, meet the prescribed eligibility criteria, being that they:

- a. are Permanent Navy members holding the rank of Able Seaman, Leading Seaman, Petty Officer, Sub-Lieutenant, Lieutenant or Lieutenant Commander;
- b. are not under an initial minimum period of service or return of service obligation;
- c. do not have a current request to discharge, to transfer to the Army or Air Force, or to the Reserves;
- d. have not received another payment for the purposes of capability of retention or are not subject to an undertaking for further service associated with such a payment, including current individual retention benefits and the Submarine Capability Assurance Payment (this does not include an undertaking for further service associated with promotion);
- e. must be ‘Ready’ overall in relation to Individual Readiness for a minimum of 10 months;
- f. have completed and maintained currency in all components of mandatory annual awareness training; and

- g. have not been reduced in rank,⁵ imposed with a censure or formal warning, or convicted under the *Defence Force Discipline Act 1982* or civilian criminal offence.⁶

Commonwealth

[8] The Commonwealth submission did not oppose the ADF proposal, however it did raise concerns as to “*how effective and efficient the Navy Retention incentive payment may be, including the possibility of second order effects*”.⁷ Those concerns include that the payment may effectively introduce a new decision point for members to consider separation; create uneven retention effects across employment categories; undermine progress in changing long-standing management practices; and induce separations if not well managed.

[9] The Commonwealth does recognise the ADF’s consideration of the limitations to the payment, including “*that it may only delay separations, its potential reduced effectiveness over time, and the necessity of managing the impact to those who miss out*”.⁸

[10] In short, the Commonwealth states that it is “*not necessarily convinced the payment will retain sufficient members to remediate persistent workforce hollowness, however is not persuaded that it will not work either*”.⁹

[11] The Commonwealth recommended that, should the payment be approved, the ADF be required to regularly report back to the Tribunal on:

- a. the progress of Navy’s broader retention initiatives;
- b. member feedback on the payment, including effectiveness of communication regarding its implementation; and
- c. any second order effects such as uneven retention or feedback indicative of loss of goodwill, and how this will be addressed.¹⁰

Witness Evidence

Deputy Chief of Navy

[12] Rear Admiral (RADM) M. Hammond AM RAN gave evidence in affidavit that the “*hollowness today stands at about 1,100 people*”¹¹ with “*multiple categories and rank structures that have shortfalls in excess of 20 percent*”.¹²

[13] He acknowledged a risk that “*people will take a cash payment and hang around for 12 months and see what happens next*” and stated that “*what’s really going to make a difference is the ability to reduce the stresses on the average individual in the deployable workforce*”. In his affidavit, RADM Hammond said that “*the only way you’re going to be able to do that is by restoring some of the resilience and structure, by having enough people in the system to allow people to take time out, to be able to go and pursue professional development options, to be able to acquit the leave to which they’re entitled*”.¹³

[14] He also declared that “*building the future workforce planning capability within Navy will enable us to map a very clear and efficient path from where we are, to where we need to*

be, to sustainably generate the outcome that Government expects through the 'ready-readying-resetting' model which creates enough people in the system to operate in a predictable, sustainable and frankly more enjoyable workforce environment".¹⁴

[15] The high level of engagement initiated by RADM Hammond with sailors and officers in the Navy is very commendable. We note that RADM Hammond wrote to every Leading Seaman and Lieutenant in the Navy to make sure they understood the opportunity they had to help the senior leadership resolve some of the longstanding workforce issues. The view expressed in his evidence that "*I wanted to make sure that those people understood the opportunity and responsibility they had to get it right and that they knew they had my support*" is also commendable.¹⁵

[16] We wish to particularly highlight his evidence that:

"I firmly believe that the proposed Retention Incentive Payment, if it is as effective as the modelling suggests, will create enough time for us to completely transform Navy's structures and review our policy baseline across the entire enterprise. I believe that we must make sure that any of the old policies that irritate our workforce are, as far as possible, changed to reflect contemporary aspirations in our society. Such change will assist to pour more people into the system to give our current workforce some relief and build more resilience. So ideally in five years' time when the Navy Retention Incentive is reviewed we should be a larger, stronger, more resilient, more healthy, and hopefully a more happy workforce because the output that we're generating is more sustainable".¹⁶

We also wish to highlight a point made by RADM Hammond in his oral evidence:

"We're delivering on average, 1800 people at sea every day for the Navy of 14,000. Now, for context, Army is deploying - averaging 1,200 deployed per day with 30,000. So, there is recognition that the output is significant, and that it's very difficult to sustain. I come back to the patrol boat analogy, 17 crews, 15 platforms and 10 navigating officers. The Chief of Navy's Flag Lieutenant got on a plane a few weeks ago and flew up to Broome to one of the patrol boats to keep it on mission..."¹⁷

Director General Maritime Operations

[17] Commodore (CDRE) M Buckley CSC RAN gave evidence concerning the operational tempo of the Navy and ADF tasking and outlined the "*overall effect that more Navy members are deployed overseas more often, and spend more of their overall time at sea*". His evidence detailed the impact that the hollowness in the mid-ranks has on operations by resulting in a smaller number of people being available to meet the increased deployment cycles.

[18] His evidence outlined the requirement to increase the average length of service of the mid-ranks because they "*are very hard to replace; you can't replace someone with six or eight years' experience*" and that "*getting those people beyond that point, to then be the people planning operations as so on, and commanding the ships, is vital as well*".¹⁸

[19] CDRE Buckley gave detailed evidence on the impact of operations on ships' schedules and the balance of future and current activities of the Fleet. He outlined the

importance of providing incentives for people to continue their service while still maintaining the operational requirements. *“So things like how much leave ship’s companies have, how much of their school holidays are spent away – that is a really complex process, because you’re pulling together maintenance, training, other parts of the supply side, personnel posting plots and the like and you’ve got to match it with the operational demand. We try and find the appropriate middle ground in order to demonstrate very clearly that our people are telling us they’re under great strain and things like bringing ships back can make a difference to someone, to a family, when they get home early. So even those kinds of things, we’re trying to find small wins in that process”*.¹⁹

Consideration

[20] We firstly considered the range of financial incentives previously used by Navy to influence workforce issues, as well as those most recently considered by the Tribunal in Matters 1 of 2008 – *Navy Capability Allowance*²⁰ and 14 of 2015 – *Submariner: deliberately differentiated package*.²¹ We also had regard to the two bonuses currently being paid by Navy under s.58B of the Act; one for Recruit Instructors and one for Cryptologic Sailors.²²

[21] We considered in detail the evidence of RADM Hammond that *“what’s different about the proposed incentive payment is that the personnel capability that we’re going to build is being partnered with the restructuring of Navy”*.²³

[22] We considered the evidence that this financial incentive aims to attract those members currently approaching known separation points to delay leaving the Navy for at least 12 to 24 months. We accept that the intent of the allowance is to help fill workforce gaps and create conditions that will allow Navy to fully embed other non-financial initiatives into its day-to-day business model.²⁴ Further, we note that this financial initiative is part of a plan to address workforce hollowness on an ongoing and enduring basis.

[23] We recognise that peak officer separation rates are occurring at the six and nine year mark (with only 50 percent remaining after 11 years of service) and that peak sailor separation rates are occurring at the four and six year mark (with only 50 per cent of those members remaining after seven years’ service).²⁵

[24] We are encouraged by the approach of the Chief of Navy to form a Retention Working Group to engage with this workforce, understand their issues, and develop effective retention initiatives. We note that the Working Group has conducted focus groups in which members were questioned about the likelihood of remaining in the Navy should there be an offer of a financial incentive. We accept that *“the overall majority indicated that this would have an impact on their propensity to remain in conjunction with other broader workforce reform”*.²⁶

[25] We are also reassured by the development of a ‘Retention Action Plan’²⁷ which will focus on:

- a. recognition and reward for innovation and achievement;
- b. increased representation of women;

- c. increased representation of indigenous people;
- d. better retention initiatives for key capability employment categories;
- e. submarine workforce retention strategies to support the desired growth rate;
- f. refining and innovating information systems to improve management of the Navy divisional system; and
- g. implementing people-focussed policy that supports the Navy Resilience Plan.²⁸

Conclusion

[26] We accept that the combined effect of the current workforce situation and capability pressures necessitates immediate action.

[27] We agree that incentivising this cohort of mid-rank officers and sailors to serve beyond their obligation period is more likely than not to provide Navy additional members at the critical mid-rank levels. We accept that Navy has assessed that by extending the length of service of these selected members by a minimum of 12 to 24 months the following will be achieved:

- a. greater alignment of supply and demand of trained members at key ranks;
- b. greater workforce stabilisation including the recovery of Navy's 'at risk', 'critical' and 'perilous' categories;
- c. better retention of members at the right career stages to contribute their experience and skills to the organisation and grow future generations of skilled Navy members;
- d. greater return on investment on training;
- e. a larger pool of eligible members for promotion which supports robust selection processes; and
- f. greater capacity for Navy to contribute to its own, and ADF, capabilities.²⁹

[28] We agree that the retention incentive payment will be paid to relevant sea and shore based positions, reflecting Navy's recognition that all applicable positions are critical to the health of a balanced workforce.

[29] We agree there will be an element of the workforce for which the incentive will only delay their separation decision and not prevent it. We accept that even a short delay is likely to help provide Navy with the time to implement the suite of non-financial incentives, which may also help retain those members who previously considered leaving at the key mid-rank point.

[30] We gave detailed consideration to any real or perceived similarities between the Navy Capability Allowance and this retention incentive payment, and agree that the key differences address the contemporary state of the workforce and the issues targeted.

[31] We agree that reduced separation rates will also reduce the personnel pressures associated with posting instability and the constant workforce ‘churn’ at sea.

[32] We agree that the retention incentive payment be paid as a completion payment to members who meet the eligibility criteria at the rate of \$20,000 (gross) to be paid as a lump sum for the previous year’s contribution.

[33] We agree with the Commonwealth that detailed report backs should cover, as a minimum, those items at paragraph 11 of this decision and therefore require Navy to return to us in December 2019 with further report backs required six monthly thereafter.

[34] Determination 2 of 2019 gives effect to this decision for a period of five years from 1 July 2019.

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

RADM J. GOLDRICK AO CSC RAN RTD, MEMBER

Appearances:

Mr J Phillips SC with Mr P Blady for the ADF

Ms A Sullivan with Mr J O’Reilly for the Commonwealth

¹DMR/OUT/2019/4 *Listing application – Navy Retention incentive payment* dated 7 March 2019.

²described as sustained shortfalls of skilled members to deliver key outputs against a valid enduring requirement, viewed in terms of rank, employment categories and levels of experience.

³ Listed for hearing in late 2019.

⁴ ADF submission *Navy Retention Incentive payment* Matter 2 of 2019 (ADF 1) page 6 paragraph 11.

⁵ under s.14(1)(a) of the *Defence Regulation 2016*.

⁶ADF 1 page 37 paragraph 101.

⁷ Commonwealth submission Matter 2 of 2019 *Navy Retention Incentive Payment* dated 28 March 2018 (CWLTH 1) page 2 paragraph 4.

⁸ CWLTH 1 pages 7 and 8, paragraphs 53 and 66.

⁹ CWLTH 1 page 9 paragraph 75.

¹⁰ CWLTH 1 page 10 paragraph 79.

¹¹ Affidavit of RADM M D Hammond (ADF 3) dated 2 April 2019 page 3 paragraph 14.

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- ¹²ADF 3 page 4 paragraph 21.
- ¹³ ADF 3 page 10 paragraph 43.
- ¹⁴ Described as Ready: deployable; Readyng: preparing to conduct operations or deployment; Re-setting reconstitution and respite.
- ¹⁵ Transcript of 3 April 2019 page 13 line 36.
- ¹⁶ ADF 3 page 7 paragraph 32.
- ¹⁷ Transcript page 24 line 41 - page 25 line 2.
- ¹⁸ Transcript page 6 line 45 to page 7 line 3.
- ¹⁹ Transcript page 8 lines 1 to 8.
- ²⁰ <https://www.dfrt.gov.au/sites/default/files/NCA-Decision-17-July-08.pdf>
- ²¹ <https://www.dfrt.gov.au/sites/default/files/SM-CAP-decision-29-.1.2016.pdf>
- ²²A completion payment of \$10 00 per year; and an upfront payment of between \$25000 - \$40 000 for an undertaking to serve a further two years, respectively.
- ²³ ADF 3 page 10 paragraph 42.
- ²⁴ ADF 1 page 7 paragraph 13.
- ²⁵ ADF 1 page 12 and 13 paragraphs 27 and 28.
- ²⁶ ADF 1 page 20 paragraph 51.
- ²⁷ Director General Navy People letter B12626050 dated 26 February 2019.
- ²⁸ ADF 1 page 22 paragraph 60.
- ²⁹ ADF 1 page 28 paragraph 73.