

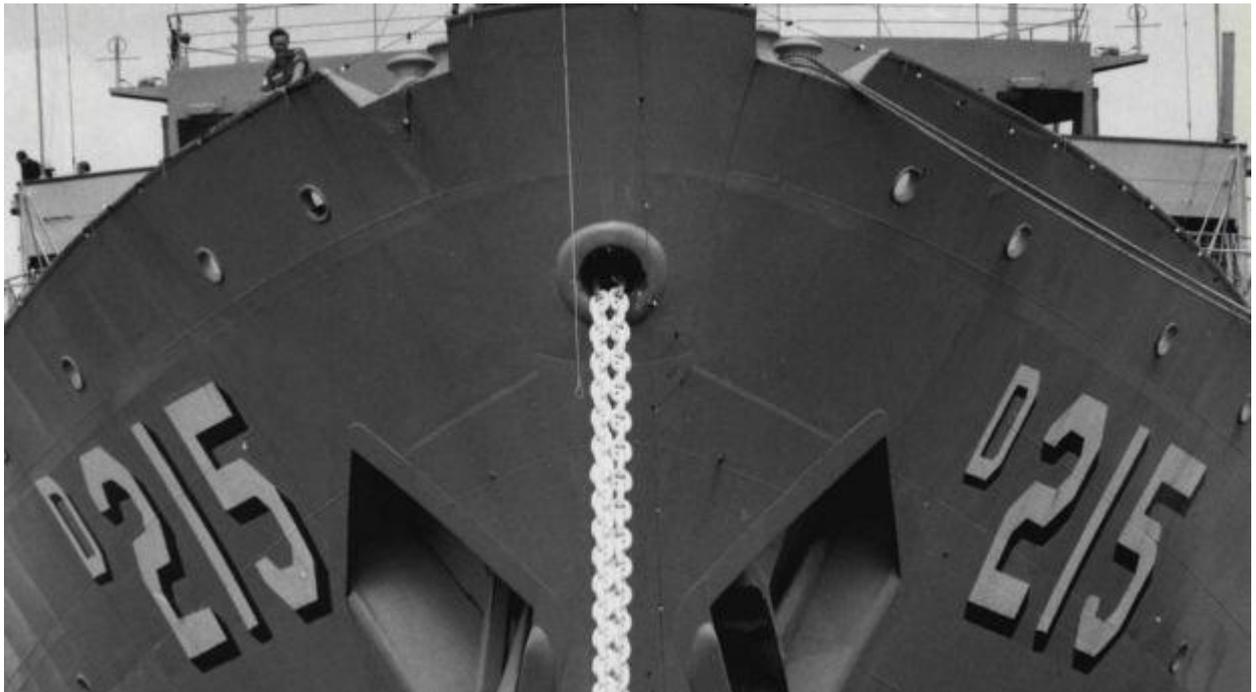
# Navy ordered to pay compensation for causing sailor's smoking habit



Andrew Taylor APRIL 17 2017 - 12:15AM

Christopher Cooper began smoking shortly after he enlisted in the Australian Navy.

"I was encouraged to smoke because of the 'stand easy' and mess activities on board when the bar was open," he said in 2014. "Taking a break meant having a smoke. I was 15 at the time I enlisted and wanted to be one of the 'men'."



Christopher Cooper spent much of his navy career on the HMAS Stalwart. *Photo: Alan Gilbert Purcell*

But that rite of manhood proved deadly to Mr Cooper, who died of tongue cancer in 2015.

His widow Bronwyn Cooper will now be entitled to compensation after the Administrative Appeals Tribunal decided her husband's smoking habit was caused by his military service.

"The tribunal is satisfied that the deceased's employment with the Royal Australian Navy did contribute to a significant degree to his smoking," it said.

Mr Cooper lodged a claim for compensation in 2014, shortly before his death, stating his illnesses had been caused by smoking and exposure to passive smoking within a ship environment during his 23 years of military service.

He began smoking in February 1977, after he enlisted in the navy, because of peer pressure.

Mr Cooper said he did not recall knowing about the dangers of tobacco and "smoking went along with drinking alcohol which he was allowed to do in the mess during training".

His habit steadily increased until he was smoking a packet of cigarettes a day by the time he was assigned to HMAS Kuttabul aged 17.

Mr Cooper was later assigned to the sea-going ship HMAS Stalwart where cigarettes could be purchased duty free at sea and cost 30 to 40 cents a packet.

He was still smoking between 10 and 20 cigarettes each day when medically examined in the late 1990s, and gave up smoking in April 2005.

The Military Rehabilitation and Compensation Commission said Mr Cooper's smoking was a personal choice.

The tribunal rejected this argument, pointing to Mr Cooper's youth when he enlisted: "A boy of that age who was living and working in a closed and strange environment would necessarily have been more susceptible to peer pressure and more likely to adopt the habits and culture of those he was living with to 'fit in' and to make life bearable."

The commission also argued that at the time Mr Cooper enlisted the Australian Defence Force no longer provided cheap cigarettes and expressly discouraged smoking – a claim questioned by the tribunal.

The tribunal found navy crews had access to cheap tobacco products while at sea until December 2012.

The tribunal said "compensation is not available to every former member of the defence force who can establish that they commenced smoking whilst enlisted and thereafter suffered a smoking-related illness".

Mr Cooper's previous compensation claims had been rejected because there was no evidence that smoking was condoned or encouraged by the navy.

But the tribunal distinguished Mr Cooper's case from other military personnel whose compensation claims for smoking-related illnesses were turned down.

"His youth, distance from his family, rapid onset of smoking, length of service and easy access to cigarettes are all key factors in determining whether the deceased's smoking habit was caused by his defence service," the tribunal said.

Georgia Plunkett-Scott, a lawyer at Maurice Blackburn, said few workplaces would be likely to be held liable in this way for smoking-related illnesses.

"Cases like this however have been proven in military employment," she said. "In past years cigarettes were provided by the Defence Force and smoking was often encouraged as part of the culture of these workplaces."

She added: "Compensation awarded in cases such as these can vary, but is largely dependent on the types of benefits being sought."

Barbara McDonald, a professor in the University of Sydney's Faculty of Law, said the law placed an increasing emphasis on personal responsibility.

But she said there were a number of factors that suggested Mr Cooper's illnesses were caused to a significant degree by the navy.

"He was very young when he enlisted," she said. "He didn't smoke when he left. He was clearly very impressionable, smoking was tolerated and of course there was passive smoking as well as active smoking."

Copyright © 2017 Fairfax Media

WEBSITE FEEDBACK

Source - <http://www.canberratimes.com.au/national/navy-ordered-to-pay-compensation-for-causing-sailors-smoking-habit-20170416-gvlp0e.html>