

Fire Services Bill Select Committee  
Parliament House, Spring Street  
EAST MELBOURNE VIC 3002

**Submission on the Firefighters' Presumptive Rights Compensation and Fire Services Legislation  
Amendment (Reform) Bill 2017**

As a Senior Volunteer leader from CFA District 23, I am writing to submit my questions and associated concerns to the Fire Services Bill Select Committee that reflect my deep concerns with *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill 2017*

My Questions relate broadly to the Inquiry's Terms of Reference: Impact on fire service delivery across Victoria, effect on volunteer engagement and participation in fire service delivery, short term and long term cost impact on fire service provision and underlying policy rationale.

- 1. Has the process of Fire Services reform been undertaken in a manner that reflects its importance to the State of Victoria?**
- 2. Under the new legislation, how can CFA be assured that any arrangements made under Memorandums of Understanding between FRV & CFA are not subject to Union approval as part of their EBA with FRV?**
- 3. Given the Secondment arrangement limits the potential pool of applicants, will CFA be able to ensure it can employ suitably qualified and experienced staff in all positions?**
- 4. Why are two unrelated issues of important public policy, Fire Services Reform and Presumptive Rights relating to Cancer compensation, being defined in a single Bill?**

**Question 1: Has the process of Fire Services reform been undertaken in a manner that reflects its importance to the State of Victoria?**

**Context:**

The latest proposal has been formed by a secret committee of Government without any substantive discussion with CFA, MFB, EMV or the Volunteers that it directly impacts. Even Cabinet members were seemingly kept in the dark whilst radical change that will affect all Victorians was being formulated and then presented as a fait accompli.

The lack of transparency in the process and the rush to legislate is deeply concerning to CFA staff and volunteers as well as the broader Community.

None of the many recent reviews into Victoria's Fire Services including the 2009 Victorian Bushfires Royal Commission; 2011 Jones Inquiry; 2015 Fire Services Review, 2014/15 Hazelwood Mine Fire Inquiry and the 2015/16 Parliamentary Inquiry into CFA Training College Fiskville. have ever recommended that our Fire Services be split into a Career staff service and a volunteer -only service.

The Government has been very selective in its references to these reviews in its latest media releases.

The 2009 Victorian Bushfires Royal Commission specifically stated in its final report that it considered that the CFA integrated service delivery should be maintained as a viable model. The Andrews Government's own Fire Services Review in 2015 called for the strengthening of the CFA's integrated model to preserve the vital surge capacity provided by volunteers.

The review being conducted by Select Committee cannot in itself replace the proper process of review and reform of Victoria's Fire Services that should be the precursor to any legislative change, especially when we consider what is at stake here.

After reading the available documents and discussing the proposed legislation with other CFA members, both paid and volunteer, I have independently formed a view that what is before us is an appalling issue of governance. This change to the Fire Services will not reflect well on the Victorian Parliament if it acquiesces to the kind of abuse of proper Parliamentary process that will occur with the passing of this Bill in its current form.

Our Community deserves reasonable consultation, proper process and constructive dialogue with the Government. It is the least that our community deserves when the stakes are so high.

In the context of the broader issue of Volunteerism, I would note that these things are all enshrined under the CFA Act and ignoring them will be to the detriment of the morale and efficacy of the CFA and consequently negative effect to the community as a whole.

**Question 2 ; Under the new legislation, how can CFA be assured that any arrangements made under Memorandums of Understanding between FRV & CFA are not subject to Union approval as part of their EBA with FRV?**

**Context:**

The Secondment model means the pool of employment for CFA middle management and instructor roles is now to be exclusively from FRV.

My questioning within CFA around this development has been responded to with assurances that the Chief Officer and other management personnel will maintain control of personnel recruitment through the Memorandum of Understanding mooted between FRV and CFA.

The EBA previously sighted during the failed CFA-UFU negotiations contained clauses that gave the employee's union effective control of such Memorandums through the establishment of a Consultation Committee. This established Union agreement, in a Committee comprising equal numbers of employer and union representatives, as a requirement in a general sense (CFA UFU EBA Version 17.6, Clauses 19 & 21).

The effects of these clauses were at the heart of the concerns of the previous CFA Board, Chief Officer and CEO as well as former Minister for Emergency Services. Their concerns related to the prognosis that the clauses would limit, if not remove, the Authority's ability to maintain control of its own management.

Assuming any future FRV-UFU EBA contained these or similar clauses, which seems likely, it would mean that a Memorandum of Understanding could not be introduced if consensus is not achieved in the FRV UFU Consultation Committee. To break the any deadlock, the FRV would need to take any matter that could not be resolved to Fair Work Australia to get a ruling.

This process will limit the CFA' s ability to develop a Memorandum of Understanding with the FRV without UFU interference. The image of the CFA as an independent organisation in control of its own affairs being promoted by proponents of the Bill does not mesh with this prospect.

Any CFA-FRV Memorandums of Understanding will be subject to significant influence through the FRV-UFU Consultative Committee and through related FWA rulings. Effectively, the ability of the CFA to define its own operational and administrative policies and procedures will be defined by the necessary conditions imposed on CFA by the EBA agreement of another organisation with its employees.

The Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill 2017 offers no protection to CFA from the effects of these kind of clauses.

**Question 3 : Given the Secondment arrangement limits the potential pool of applicants, will CFA be able to ensure it can employ suitably qualified and experienced staff in all positions?**

**Context:**

Successive EBAs with the UFU have had the effect of narrowing the field for CFA when it comes to seeking candidates for middle management and Instructor roles. The Secondment arrangement limits that pool finally to FRV staff who are recruited initially for their aptitude as structural firefighters.

This creates specific problems. Currently in the North East, as an example, **Wildfire Instructor** positions have been filled by people with requisite training qualifications and a broad practical experience in responding to bushfires on public and private land. Some have a background as a CFA volunteer, some have come from the Public sector where they have worked in fire management and have joined CFA through Lateral Entry. They are seasoned firefighters and knowledgeable experts in their field as a rule, with a rapport for the people they train.

The Secondment model will entrench a practice that means the available candidates for these roles will have had a primary role as an urban firefighter for most of their working life. They will not necessarily have had significant fireline experience in major bushfires as their potential EBA conditions will limit their opportunities to undertake Strike Team or Fireground leadership roles. There is no prospect of employing the calibre of people we currently have in respect of practical experience unless they resolve to enter FRV employment at Recruit Firefighter level and work their way through the ranks.

There is no doubt FRV staff will be able to fulfil roles as Structural Fire Instructors. That after all is their primary focus. But it is difficult to see how FRV staff will accrue the practical experience on the fireline that will give them the deep background that an effective Wildfire instructor needs. Limiting the potential pool of candidates is a retrograde step.

CFA has suffered already from this kind of issue over recent years with successive EBAs already defining employment practices.

Operations Officer positions at District level are difficult to fill in some parts of the State and the appointees often suffer from a lack of management skills that prepare them for leading, motivating and empathising with Volunteers. Few of the Operations Officers I have worked with in senior Incident Management roles have an equivalent fireground experience of large scale fires that my volunteer colleagues have. The individual Operations Officers I know that do have that experience gained it through volunteering outside their paid role.

To a large extent, Career Staff are not to blame for this as they are recruited as Career Firefighters and spend their working life in a highly structured environment with strict hierarchies. That is likely to continue with the creation of FRV.

Some of our current senior management within CFA and EMV were trained specifically as CFA “Regional Officers” as part of a practice now discontinued. Similarly, the ability to recruit qualified people with broad experience through Lateral Entry has been discouraged to our detriment. When we could previously employ outside of the Recruit firefighter stream, we found outstanding examples of management staff of the highest calibre.

The Secondment arrangement with FRV is the final step in a dedicated effort to capture Career Staff positions for a small group, defined largely by their membership of a particular Union. It does not provide the CFA with an opportunity to seek out the best possible candidates from the widest possible group.

The nature of our staff at a District level has an enormous impact on the level of volunteerism in our Brigades and our Communities. Limiting the employment pool to FRV staff only, where they have an inherently narrow opportunity for practical skills development outside their chosen field, will diminish CFA.

**Question 4 : Why are two unrelated issues of important public policy, Fire Services Reform and Presumptive Rights relating to Cancer compensation, being defined in a single Bill?**

**Context:**

I have a strongly held view that Fire Services Reform and Presumptive Rights Compensation should be split into its component parts and each considered by Parliament as a separate piece of Legislation. The issues being addressed are of sufficient public importance that they clearly demand their own separate Bills.

Linking two unrelated issues together in this way is not only a calculated and cynical ploy to obtain a politically driven outcome, but also a means to stifle debate on each issue. There is limited time in Parliament for debate on any legislation and when a Bill structured like this is tabled, the amount available for debate on each issue is effectively halved.

Such an action by a Government does not meet community expectations of Parliamentary behaviour. Indeed, it diminishes the Parliament in the public view.

With regard to the detail of the Presumptive Rights Compensation elements of the existing Bill, I have grave concerns that the standards of quality and fairness present do not treat our firefighters with fairness and equity.

There is a model of Presumptive Rights Compensation legislation established in Queensland that has been held as a positive example by many engaged in the debate so far. The CFA has assured its members, paid and volunteer, that the proposed Presumptive Rights Compensation Legislation does

match the standards of the Queensland model but the recent legal opinion from John (Jack) Rush Q.C. indicates that is not the case.

Does the current Bill give all members of the CFA, paid and volunteer, reasonable compensation for the devastating illnesses potentially attributable to their service to the Community as a CFA member?

Are the processes described within the Bill, regarding assessment of claims, fair and equitable to all members, particularly in context of the Queensland model of legislation?

**Conclusion:**

My view is this is an ill conceived and poorly framed piece of legislation on the whole.

As a CFA Volunteer of 30 years, I have undertaken a broad range of operational roles and have gained many qualifications in bushfire suppression and management. I am currently a Level 3 Incident Controller, accredited by EMV and CFA.

None of what I have read convinces me that the proposed reforms will necessarily lead to improved service to our community. The cost to the Community in financial and social terms has not been adequately considered.

For me, the CFA is an organisation greater than the sum of its parts. Its influence in our communities for joining people in a common cause is an under-appreciated virtue. It unites communities in times of disaster and in times of calm. As a fire-fighting organisation, the CFA provides protection, education, and resources to a population that lives in the most fire prone part of the world, and is acknowledged as an outstanding success world-wide.

It plays a major role in the personal development of thousands of Victorians, teaching an uncommon set of skills to a diverse group of people, developing and mentoring community leaders, assisting individuals to prepare for disasters, and helping communities to become resilient. It is a force for knowledge and understanding in an ever-changing world.

Like all of us that live beyond the metropolis of the City of Melbourne, my family and I rely on this organisation, this system, to protect our lives, our property and our natural environment.

Reform in my view is clearly necessary. Institutions like the CFA require regular development lest they fall behind Community need.

Such reform though should be *properly considered, carefully constructed and engage all those expected to carry it out* - all things that this legislation is not.

Thank you for your willingness to be part of the Select Committee and for your preparedness to engage with the broader community – your work is greatly appreciated.

Lachlan Gales  
Byawatha  
Victoria.

Email: [REDACTED]

Mobile: [REDACTED]