



# VOLUNTEER FIRE BRIGADES VICTORIA

## News Note

**NOTES FOR VOLUNTEERS – 16 August 2016**

### **VFBV INJUNCTION APPLICATION TO SUSPEND EBA PROCESSING**

Our injunction to suspend the processing of the UFU EBA because it contains clauses contrary to the CFA Act affecting volunteers will be considered by the Supreme Court on Wednesday morning.

### **MISLEADING PUBLIC COMMENTS BY CFA CEO FRANCES DIVER**

In repeated statements to the media, CFA CEO Frances Diver has said that as part of the VFBV-CFA consultation arrangements CFA had provided VFBV with “extensive documentation”. This is simply untrue and we are disappointed that Ms Diver would try to rewrite the truth.

Ms Diver’s failure to present the facts with accuracy also extends to claims that the arrangements negotiated with UFU, principally through a Statement of Intent document by CFA and UFU, provide protection to volunteers and the role they play and somehow protects the powers of the Chief Officer under the CFA Act. This is simply wrong.

There are two critical problems with the ‘Statement of Intent’ document, its supposed protections for volunteers are very limited at best and at any rate the document has no legal standing and is unenforceable. If the EBA is registered it is not impacted by the statement of intent documents and where its terms and requirements differ from the CFA Act, it prevails over the Act as a matter of law.

That is why we are left with no option other than to take legal action to try and stop the EBA while it still contains clauses which negatively impact on volunteers and the operations of CFA as a volunteer based fully integrated service.

### **WHAT WE GOT FROM CFA**

In respect to Ms Diver’s public claims that “CFA has provided VFBV with extensive documentation” during the supposed consultation period, here are the facts.

The only information we received from CFA was:

1. At the start of the period for consultation, CFA gave VFBV a single copy of version 17.4 of the proposed EBA on 24 June. The following week the document was made generally available to CFA members on the CFA website.
2. On 12 August 2016 (at 10:57 am) – A letter from CFA lawyers advising VFBV that CFA had considered the matters raised by VFBV and in light of the bargaining position of the UFU and in the context of the policy position of the Victorian Government, no further changes had been able to be agreed. CFA attached a draft 2½ page joint statement of intent by CFA and UFU, and a draft one page letter from the CFA Chair to the CFA Chief Officer instructing that the draft EBA has been approved by the CFA Board.
3. On 12 August 2016 – A letter from CFA Lawyers notifying VFBV of CFA’s intention to request that employees approve the EBA by voting for it etc. Although not sent directly to VFBV, CFA also posted to the CFA intranet at 6:44 pm on 12 August 2016 advising of the CFA Board decision re the proposed EBA, and attaching the letter to the CFA Chief Officer; the CFA/UFU intent statement; the CFA Board resolution; and copy of the final version of the EBA

This information can hardly be described as “extensive documentation”.

#### **WHAT WE REQUESTED FROM CFA**

Now compare this to the questions we raised that CFA refused to answer and information we requested that CFA wouldn’t provide to address the concerns identified by VFBV and its members:

- Is clause 7A as presented to us (in EBA version 17.4) the full extent of proposed protection for volunteers from alteration of their rights, roles and operations by the proposed EBA?
- What is the model of a Greater Alarm Response System (GARS) being proposed to be implemented within CFA? How will a CFA GARS approach operate in practice? Has CFA completed an analysis of the volunteer workload created by such an approach, and if so can you please provide this analysis for volunteer consideration?
- What is the model that CFA is proposing, to meet its obligation under clause 43.2.7: “seven professional firefighters to fireground incidents are dispatched before commencement of safe firefighting operations...” (District 2, 7, 8, 13, 14, 15 and 27), including:
  - Flow on workload operational and fire ground safety implications for volunteers and volunteer brigades;
  - Step up implications and additional workload implications for volunteer brigades and volunteers at integrated brigades.
  - Impact on support availability to volunteer brigades currently supported by integrated brigades.
  - Impact on integrated brigade paid firefighter crews being more frequently dispatched out of primary brigade service areas on volunteer workload and primary service area risk exposure etc.

- What are the “agreed impact of” BASO and Volunteer Support program by persons covered by the proposed EBA? (referenced in clauses 15 & 16). VFBV continues to contest that the BASO and Volunteer Support Programs are not appropriate inclusions in the Operational EBA and are fundamental non-operational volunteer support programs. As such any changes to these programs impact on volunteer brigades across Victoria. Inclusion of the BASO and VSO clauses in this EBA is a direct contradiction of the Premier’s and Minister’s assurances that the proposed EBA has no effect on volunteer brigades.
- What process will CFA be using to ensure VFBV and volunteers are genuinely consulted on matters arising from the EBA’s Consultation and Dispute Resolution processes? (Clauses 21, 26, 27 and 58)
- What process will CFA be using to ensure VFBV and volunteers are genuinely consulted on matters arising from discussions initiated by Clause 41? What process will CFA use to ensure the results of that consultation and volunteer inputs specifically - can be genuinely considered in decision making? How will dispute resolution provide guaranteed fair and equitable outcomes for volunteers?

Because none of this information was provided during the consultation period, VFBV:

- wrote to CFA on 29 July further requesting this information;
- following CFA’s failure to again provide the requested information, we reiterated the request for it at the meeting with CFA Board on 1 August 2016;
- arising from CFA’s continued failure to provide the request information, we again requested the information on 7 August 2016 as part of our submission to the CFA Board in response to their request for VFBV’s suggested amendments to problematic EBA clauses (per the request made by CFA Board at the meeting of 1 August 2016); and,
- yet again on 12 August 2016 we requested the information we had sought over the preceding weeks.

Further, on 7 August 2016, following statements made by the CFA Chief Officer to the Legislative Council Committee on Environment and Planning’s Inquiry into fire season preparedness that he had received further information on matters relating to ‘CFA’s 14 threshold issues’, we requested such information, including details on how the threshold issues would be dealt with in a legally enforceable manner in association with the application to register the EBA with the Fair Work Commission.

We are yet to receive this information from CFA.

As members can see from the details above, the information provided to VFBV was negligible and can hardly be said to meet anybody’s definition of ‘extensive documentation’. CFA’s failure to provide important and relevant information to us during the consultation process and in the period thereafter when we were still daring to hope that we could come to a settlement with the new CFA Board that met the obligations and intent of the CFA Act is a bitter disappointment.

Andrew Ford  
 CEO  
 Volunteer Fire Brigades Victoria