

Award negotiations update no. 2 - 25/06/08

I am forced, reluctantly, to respond to the torrent of misinformation and distortion of facts that has been promulgated by the Union Office recently in support of the campaign to secure pay increases for all firefighters.

I use the word “reluctantly”, because I have until now harboured some hope that Union officials might start to work WITH the Brigade to find ways, within Government policy, to secure pay increases above 2.5% for firefighters. I also know from experience that any response from me to Union Office rhetoric will result in more personal attacks and allegations that the “employer” has put negotiations “off the rails”. There are interesting double standards in this respect between what the Union Office is prepared to publish, and the outrage expressed whenever the Brigade responds, no matter how reasonably such responses are couched.

The Brigade has put forward numerous suggestions since September 2007 aimed at achieving pay increases above the base level of 2.5% contained in the Government Wages Policy based on employee related cost savings as provided for under the policy. Twelve other agreements throughout Government have been negotiated with other unions and these have delivered additional increases based on agreed employee related savings.

How negotiations have proceeded

In late 2007 Union officials initially seemed prepared to work with the Brigade, but early this year the Union evidently made a policy decision to instead pursue its objectives via an industrial, political and media campaign. This, of course, is the Union’s prerogative.

A major concern to me however is that the increasingly untruthful and aggressive approach adopted by the Union Office seems to be clearly aimed at creating divisions within the Brigade. I am not prepared to allow untrue statements, particularly personal attacks on individuals to go unchallenged. It is possible that there has been a dawning realisation that in its rejection of the path of negotiation (while blaming the “Department” for this), the Union Office has now realised that it may experience great difficulty in securing the pay increases it has promised to its rank and file members.

Firefighters are intelligent, fair-minded people, and thus far have had little in the way of information placed before them that would enable them to evaluate what the Union Office has been saying. I apologise for this, however I have refrained from publishing any responses, knowing that any communication from me will be met with a predictable angry response from the Union Office. However, given the Union Secretary’s own observation that things cannot get any worse, the untruths that have been published, and that there now seems to be no prospect of working with senior Union officials to reach a negotiated outcome, it is important that firefighters receive as much information as possible so that they can

evaluate what they are being told. I will therefore progressively publish commentary and explanations of various Union Office assertions and statements, explain the changes put forward by the Brigade, and explain the processes of the Industrial Relations Commission (IRC).

What is a “work value” or “special case”?

A work value or special case before the IRC is where a union puts forward evidence of changes in work practices over a period of years, and argues that workers should be compensated for the changes via pay rises. In our case, a Full Bench of the IRC (three judges) will hear the evidence from the parties and make a determination (arbitration).

The Union has made it abundantly clear that it is not happy with the Government’s Wages Policy that provides increases of 2.5% per year, and enables increases above this provided there are employee related cost savings. Despite its latest assertions to the contrary, the Union applied for arbitration when it was suggested.

Back in December 2003 I e-mailed all staff warning that the Union’s approach of banning all new work and refusing to work with the Brigade on modernisation and improvements could one day cost all firefighters dearly, as per the following excerpt:

Different approaches to "productivity"

Finally, a word on "productivity" and two alternative philosophies in this regard. I understand the difficulties faced by unions in service industries such as ours that, since the Accord years, have often been called upon to demonstrate "productivity" in order to justify wage increases. Because it is so difficult to place a dollar amount on some of the intangible and pro-active work we do, such as public education and pre-incident planning, it is also difficult for unions to translate workplace changes into "hard dollars".

The Fire Brigade Employees' Union has reiterated its "standing policy banning all new and/or extra duties", which is one approach to this problem. The inevitable result of this practice however is that the Union is now experiencing great difficulty identifying improvements that can be used to justify wage increases above those offered by the Government. Because most new duties have been banned, there is very limited data available with which to argue and analyse savings or productivity improvements.

The alternative approach is, instead of taking a reactive and adversarial approach to any and all change, to facilitate and measure, rather than oppose, positive change. This would surely be better for the community, for the Brigade, for individuals' work satisfaction, and for the Union when developing arguments for increased pay.

If such a philosophy were adopted there would be quantifiable changes at Award time that both the Union and Department discuss as justification for pay rises. The current situation is one whereby nobody can prove the worth of workplace changes, because firstly, most have been banned, and secondly, most recording or quantification of changes has also been banned. Some other fire brigades and fire brigade unions in Australia have taken the alternative approach, working together to implement, measure and quantify changes. Don't be surprised if these brigades overtake NSW in the quantum of wage increases, simply because they are able to prove increased productivity.

I have personally been involved in 2 work value cases before the IRC on behalf of the Union back when I was an elected official and later when I was an Inspector. I know that the IRC will generally not consider promises to work differently or to carry out more duties in the future, and instead usually only consider work changes that have already taken place.

Another thing that the Union seems not to have openly discussed with its members is that in concert with its overriding ban on all new work, the previous Union administration in the last Award agreement in 2005 [FBEU letter 16/2/05](#) (PDF, 443KB) signed away the majority of work value up to that point for wage increases, with some exemptions in specialist areas and equipment. This is a major problem for the Union as its ban on new work has remained in place during the intervening period, and this leaves very little in terms of new work and work value that can be put forward to justify increases. This also casts a shadow over the many incorrect assertions that have been made by the Union about ACT Fire Brigade Award negotiations and pay rates. More on this at another time.

Union accusation that the “Department” is opposing pay rises for firefighters

The Brigade and I are not opposed to pay increases. As previously indicated, a great deal of work has gone into trying to work within Government Policy to secure additional increases for firefighters. This is because I recognised the difficulty that the Union would face in mounting a work value case, and all avenues to find opportunities for employee related savings were therefore explored. That the Union has chosen to portray every proposal as an attack is disappointing and can only lead to one outcome – arbitration.

I regret that on the one hand the Union Office is prepared to dishonestly and unfairly target individuals for supposedly “opposing” and “frustrating” wage rises for firefighters, while on the other seems not to have been entirely honest with firefighters about the true difficulties that the Union faces in putting forward a robust and convincing case that will deliver the result it has promised.

The unprofessional and inappropriate letters and union notices that I am now accustomed to receiving from the Union Office would I am sure be an embarrassment to most Union members. [FBEU letter 17/6](#) (PDF, 63KB) In my view the letters and their tone have no rational explanation other than, perhaps to draw attention away from delays by the Union Office in filing its case.

As far as the Union's recent claim that it never expected the matter to proceed to arbitration, the Union Secretary's own publications show that this is not true. On 21 February 2008 the Union Office publicly welcomed the decision of the IRC to refer the wage case to arbitration as a "*new avenue to prosecute our claim for increased wages*" [FBEU Notice 21/2](#) (PDF, 24KB). At the time the Union stated that it would spend the "next six months ... pushing its claim in front of the IRC and will be arguing why each part of [its] claim should be upheld."

The facts are that the Union Office had many months to prepare its case, as acknowledged in February this year, yet on 22 June a Union Notice stated that the Union would have to "*build an entire wage case in less than a month*" [FBEU notice 22/6](#) (PDF, 24KB). Union members might be justified in asking the Union Secretary why the vital task of case preparation was, by his own admission, seemingly left to the last minute. Union Notices [20/3](#), [27/5](#) (PDF, 24KB) even flagged to members that the Union Office would be working on the application from early this year and that this might reduce services to members. Ultimately the Union was more than 1 month late in lodging its case before the IRC and took expensive and unnecessary industrial action when the IRC rearranged timeframes for evidence as a direct result of the Union's delays [FBEU notice 17/6](#) (PDF, 22KB). The opportunity for each party to respond to evidence is a necessary part of case preparation and helps to identify areas of agreement and disagreement, hopefully reducing the time for hearings. The Union originally sought an extension, which the Brigade agreed to, then failed to meet the revised deadline.

What will happen now?

The Union of course has an extremely difficult and important job to do, and in fairness the current State Committee of Management of the Union have to deal with the consequences of policy decisions by previous Union administrations that may well have made sense at the time, but which could now hamper a work value case.

As far as the Brigades' handling of this matter, the so-called opposition to pay rises and "stripping" of firefighters' conditions, these claims will be dealt with in detail in future updates. Suffice to say that the Brigade has tried every possible angle to find employee related cost savings that will deliver additional pay increases to firefighters, but always within the rules that have been set. I accept that it is the Union's prerogative to reject Government Wages Policy if it sees fit

to do so, but to then untruthfully portray the Brigades' efforts to work within that policy to achieve increases for firefighters as an attack on all staff is quite simply appalling.

It is almost inevitable now that the matter will have to be arbitrated before a Full Bench of the IRC, as the Union Office is clearly not serious about trying to resolve the matter through negotiation, and equally as clearly, is determined to sheet home responsibility for this turn of events to Brigade management. I respect the Union's role and right to campaign hard on its members' behalf, and I hope that ultimately firefighters will receive a good outcome. However I have never accepted that unions have the right to intimidate individuals nor do I accept that it is acceptable or necessary to create divisions and anger within an organisation that owes its fine reputation to the strong teamwork and professionalism that it is renowned for. Surely the Union can conduct its campaign in a less damaging and divisive way?

There will be regular updates published in future.

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Commissioner**