IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-1

This is the annexure marked “JLP-1” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Efficient Government Buildings

Overview

Current program: the Government’s Efficient Government Buildings program aims to reduce energy costs and water use of existing government buildings.

Buildings included in the project are:

- TAFEs;
- hospitals;
- offices;
- courts;
- prisons;
- arts facilities;
- sporting facilities; and
- water infrastructure.

Developed and managed by the Department of Treasury and Finance, Efficient Government Buildings projects typically follow an Energy Performance Contracting process (EPC - see further detail below) whereby Energy Services Providers identify and install cost-effective energy and water efficiency solutions and provide a guarantee on project savings.

Solutions commonly include lighting upgrades and controls, heating and cooling efficiency improvements, building automation, water conservation measures and on-site electricity generation e.g. co-generation and tri-generation.

At 30 June 2012, projects had been tendered at sites accounting for 20 per cent of Government’s total energy use.

Results have shown average savings (energy, greenhouse gas and water) of over 37 per cent, with some as high as 60 per cent, whilst still delivering a cost-effective return on investment of at least 12 per cent (IRR).

What is Efficient Government Buildings?

The Efficient Government Buildings program consists of three key elements:

1. A set of guidelines outlining a prescribed process known as Energy Performance Contracting (EPC - refer to description below) and investment criteria for projects.
2. A facilitation service provided by DTF to assist departments to deliver projects in a consistent and effective manner.
3. A procurement pathway. DTF manages a panel of pre-qualified EPC service providers and has developed standard templates for planning, tendering and contracting projects.

Energy Performance Contracting

Efficient Government Buildings projects are delivered using a market based instrument known as Energy Performance Contracting (EPC).

This approach requires service providers to not only design and install energy and water saving solutions, but to guarantee annual cost savings.

The presence of this guarantee not only provides greater certainty that energy and water savings will be achieved, but enables the project costs to be financed, with annual cost savings used to repay the loan over the life of the investment.

Under the Efficient Government Buildings program’s competitive EPC tender process, contracts are awarded to the provider that identifies the greatest savings over a seven year payback period.

Projects under way

As of March 2014, the Efficient Government Buildings program has facilitated 28 large-scale building upgrade projects, including:

- Melbourne Sports and Aquatic Centre and State Netball and Hockey Centre;
- Federation Square;
- Melbourne Cricket Ground;
- Museums Victoria, including Melbourne Museum, Royal Exhibition Building and Scienceworks;
- RMIT and Ballarat universities;
- sixteen owned office buildings including Treasury Reserve;
- seven TAFEs - South West, Kangan, Sunraysia, Box Hill, Holmesglen, NMIT, Chisholm;
- four water authorities - Grampians Wimmera Mallee, Western, East Gippsland and Gippsland Water;
- forty-three major parks managed by Parks Victoria; and
- upgrade of traffic lights around the State from incandescent to LED technology.

Contact us

For further details on the Efficient Government Buildings program contact Sam Burke on 03 9651 1595.

IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-2

This is the annexure marked “JLP-2” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
EXECUTIVE SUMMARY

- MFB is committed to reducing its environmental footprint, including the reduction of energy and water use in our buildings.

- To invest in energy and water efficiency, MFB can participate in a program called Greener Government Buildings through a loan available from the Victorian government.

- This paper seeks support for implementation of proposed energy and water conservation measures in MFB buildings that will be delivered through the Greener Government Buildings program.

RECOMMENDATION: Greener Government Buildings

In accordance with the Consultative Clause 13 in the Operational Staff Enterprise Agreement, that the Consultative Committee support the implementation of energy and water conservation measures detailed in this paper.

James Holyman
Executive Director Strategy and Innovation
7 January 2014
Purpose

Support is sought for the implementation of the proposed energy and water conservation measures in MFB buildings that can be achieved through the Greener Government Buildings program.

Background

MFB is committed to providing emergency response, fire suppression and prevention services in a sustainable manner, including through decreasing consumption of energy and water and the decreased generation of waste within our corporate and firefighting operations.

The Victorian Government developed the Greener Government Buildings program, to assist departments and agencies to reduce energy use, water use and greenhouse gas emissions. The Department of Treasury and Finance offers a loan to invest in a package of energy and water conservation measures with a simple seven year payback, developed and implemented through an energy services company.

Following an initial assessment of MFB facilities, MFB is investigating the potential to implement the program in offices and selected stations. Participating in the program will assist MFB in meeting its environmental strategy targets including reducing energy use in buildings by 15%, and water use by 20%, compared to the FY06 baseline year.

The types of solutions identified predominantly fall into the category of maintenance, and are expected to have no negative impacts on staff amenity.

Apart from reducing energy and water consumption, there are no financial savings until the contract is complete (i.e. after the seven year period).

Employee Implications

The following table outlines the current situation, the measure proposed, and the expected impact on users including work practices and training. Only those measures that are relevant to specific parts of a site would be installed – many sites already have efficient equipment that is well controlled by sensors. Current lighting levels have been scientifically tested to provide a baseline.

Communications on the program, if implemented, will be provided to technical property managers for all measures and to inform work locations.

<table>
<thead>
<tr>
<th>No.</th>
<th>Current Situation</th>
<th>Proposed Measure</th>
<th>Change</th>
<th>Impact on Work Amenity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Indoor lights low efficiency (twin fluoro fittings)</td>
<td>Single tube higher efficiency fittings</td>
<td>Light levels same or better</td>
<td>Nil</td>
</tr>
<tr>
<td>2</td>
<td>Indoor lights low efficiency (halogen downlights)</td>
<td>LEDs</td>
<td>Light levels same or better</td>
<td>Nil</td>
</tr>
<tr>
<td>3</td>
<td>Flood lights low efficiency</td>
<td>Induction/LEDs</td>
<td>Light levels same or better</td>
<td>Nil</td>
</tr>
<tr>
<td>4</td>
<td>Night lights low efficiency</td>
<td>LEDs</td>
<td>Light levels same</td>
<td>Nil</td>
</tr>
<tr>
<td>No.</td>
<td>Current Situation</td>
<td>Proposed Measure</td>
<td>Change</td>
<td>Impact on Work Amenity</td>
</tr>
<tr>
<td>-----</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>5</td>
<td>Sensor-controlled lights stay on</td>
<td>Relocating sensors to perform as intended</td>
<td>Lights go off when nobody present</td>
<td>Nil</td>
</tr>
<tr>
<td>6</td>
<td>Lights are on when there is sufficient daylight</td>
<td>Sensor control to include light sensor in areas with high daytime natural light</td>
<td>Lights go off when daylight sufficient</td>
<td>Nil</td>
</tr>
<tr>
<td>7</td>
<td>Heating, Ventilation and Air Conditioning (HVAC) equipment not efficient</td>
<td>New units with higher efficiency e.g. boilers, chillers</td>
<td>Same or better thermal comfort</td>
<td>Nil</td>
</tr>
<tr>
<td>8</td>
<td>Artificially heating or cooling spaces when the outside temperature is suitable</td>
<td>Economy cycle – bringing in outside air without heating/cooling when it falls within the acceptable temperature and humidity range</td>
<td>Same or better thermal comfort</td>
<td>Nil</td>
</tr>
<tr>
<td>9</td>
<td>Exhausting hot air to outside the building at the same time as heating the building</td>
<td>Heat recovery – using a heat exchanger to capture and reuse waste heat</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>10</td>
<td>Plant not operating in the most efficient manner</td>
<td>Building Management System (BMS) optimisation – proprietary software that controls temperature using less energy</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>11</td>
<td>Heat gain/loss through windows</td>
<td>Coatings to reduce heat/cool loss through glass</td>
<td>Same or better thermal comfort</td>
<td>Nil</td>
</tr>
<tr>
<td>12</td>
<td>Loss of heated/cool ed air through gaps around doors and windows</td>
<td>Draught sealing doors and windows</td>
<td>Same or better thermal comfort, reduced noise</td>
<td>Nil</td>
</tr>
<tr>
<td>13</td>
<td>Insulation incomplete – heat/cool loss through ceiling</td>
<td>Fixing or adding insulation to areas where it will reduce heat/cool loss</td>
<td>Same or better thermal comfort</td>
<td>Nil</td>
</tr>
<tr>
<td>14</td>
<td>Heat gain through roof</td>
<td>Ceramic coating reduces heat gain</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>15</td>
<td>Missing/damaged pipe lagging</td>
<td>Install/replace lagging</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>16</td>
<td>Electricity sourced from grid</td>
<td>Solar photovoltaics generate a portion of electricity used</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>17</td>
<td>Rainwater tanks not plumbed in and not used</td>
<td>Connect rainwater tanks to toilets and/or drip irrigation system</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>18</td>
<td>Lights on in mess when nobody using</td>
<td>Install sensors that read both movement and noise</td>
<td>Lights turn off in mess when not in use</td>
<td>Nil</td>
</tr>
<tr>
<td>19</td>
<td>Tightly controlled thermal conditions regardless of season, resulting in cycling of heating and cooling all year round</td>
<td>Widen temperature band and match to seasonal conditions</td>
<td>Same or better thermal comfort</td>
<td>Nil</td>
</tr>
<tr>
<td>20</td>
<td>Lights, HVAC, appliances on when not in use (during callouts)</td>
<td>Connect HVAC to station isolation so that temperature band widens by 2 degrees when staff not present</td>
<td>Temperature of air conditioned spaces may be cooler or warmer by 2 degrees on return to station for first 15-30 minutes</td>
<td>Nil</td>
</tr>
</tbody>
</table>
The sites where these measures are being considered are:

1. Eastern Hill (offices, server room and museum)
2. Burnley Training College
3. Thornbury Workshop & Offices
4. 2 Baker St (server room)
5. FS01 Eastern Hill
6. FS03 Carlton
7. FS04 Brunswick
8. FS06 Pascoe Vale
9. FS07 Thomastown
10. FS11 Epping
11. FS15 Heidelberg
12. FS22 Ringwood
13. FS23 Burwood
14. FS25 Oakleigh (not office)
15. FS26 Croydon
16. FS27 Nunawading
17. FS28 Vermont South
18. FS30 Templestowe
19. FS31 Glen Waverley
20. FS32 Ormond
21. FS33 Mentone
22. FS34 Highett
23. FS35 Windsor
24. FS36 South Melbourne (FS & office)
25. FS37 St Albans
26. FS38 Deer Park
27. FS39 Footscray
28. FS40 Glen Waverley
29. FS41 Templestowe
30. FS42 Oakleigh
31. FS43 Highett
32. FS44 South Melbourne (FS & office)
33. FS45 St Albans
34. FS46 Deer Park
35. FS47 Footscray
36. FS48 Glen Waverley
37. FS49 Templestowe
38. FS50 Oakleigh
39. FS51 FS & office
40. FS52 St Albans
41. FS53 Deer Park
42. FS54 Footscray
43. FS55 Glen Waverley
44. FS56 Templestowe
45. FS57 Oakleigh

Engagement and Communication

For the detailed facility study phase of the project, a project team has been set up comprising predominantly the Property Services team involved with maintenance, contracts and planning. A steering committee has also been set up comprising Property, ICS, Regional Operations, Procurement, and Department of Treasury and Finance.

In implementing the proposal (installing, commissioning and maintaining the conservation measures), the work would be done predominantly through MFB's existing contractors, under the management of an energy services contractor. Access to sites to undertake the works would be facilitated through the normal channels, that is, MFB's technical property managers.

RECOMMENDATION: Greener Government Buildings

In accordance with the Consultative Clause 13 in the Operational Staff Enterprise Agreement, that the Consultative Committee support the implementation of energy and water conservation measures detailed in this paper.

<table>
<thead>
<tr>
<th>AUTHOR:</th>
<th>Miriam Powell</th>
</tr>
</thead>
<tbody>
<tr>
<td>POSITION:</td>
<td>Environmental Leadership Coordinator</td>
</tr>
<tr>
<td>DATE:</td>
<td>12 December 2013</td>
</tr>
<tr>
<td>Ref:</td>
<td>878221</td>
</tr>
</tbody>
</table>

ELT SIGN
OFF:  
DATE: 7 January 2013
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-3

This is the annexure marked "JLP-3" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
### Meeting Details:

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time:</th>
<th>Location:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2014</td>
<td>15 January 2014</td>
<td>11:00 - 15:00</td>
<td>Metropole, Duncan Reilly Room</td>
</tr>
</tbody>
</table>

### Attendees:

- **Chair**: David Youssef
- **Convener**: Gail Lawrence
- **MFB Representatives**: Janette Pearce, Greg Pearson, David Bruce, David Youssef, Craig Lloyd, Greg Pearson
- **UFU Representatives**: Rini Krouskos, Danny Ward, Martin Davis, Tony Martin, Peter Marshall

### In Attendance:

Miriam Powell, Neil Hubbard, Paul Meehan, Lindsey Taylor, Gabrielle Wolski, Michael Davidson, Steve Watts, Ken Brown, Mark Swiney

### Agenda:

<table>
<thead>
<tr>
<th>No.</th>
<th>ITEM</th>
</tr>
</thead>
</table>
|     | **Apologies:**  
|     | Adam Dalrymple, David Hamilton, Mick Tisbury, Tony Trimble, Greg Pearson, Brendan Angwin, Peter Thomas  
|     | (12:47 – Peter Marshall leaves the meeting) |
| 1   | Minutes of Previous Meeting  
|     | Minutes accepted by both parties. |
| 2   | Minutes of Sub-Committee meetings  
|     | **Noted**  
|     | Acknowledgment and acceptance of these minutes does not constitute endorsement of matters addressed at Sub-Committees. To complete consultation matters must be referred back to the CC by the proposer and not the Chair of the Sub-Committee.  
|     | The minutes are accepted by both parties. |

### Proposals and Papers

- **P4.1/01/2014**  
  **Greener Government Buildings – Miriam Powell**  
  **PAPER RECEIVED – YES**  
  1. The UFU request the following:
<table>
<thead>
<tr>
<th>Date</th>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
</table>
| P4.2/01/2014 | PPC/Uniform Retirement &/or Resignation of Firefighters – Neil Hubbard | 1. MFB’s submission to State Government.  
2. The anticipated savings based on current figures if there is a reduction. Is this an ongoing saving? Explain why the comparison is based on financial year 2006 not current financial year usage.  
3. UFU request a UFU representative involved in Steering Committee.  
4. Projected time schedule of works for each location.  
5. Information on Greener Government Buildings Policy.  
6. Standing Agenda Item for this item going forward for progress updates on completion of stages and location of work.  
2. The MFB will respond at the February CC meeting.  
3. The MFB and UFU are supportive of the initiative in principle. |
| P4.1/08/2013 | MFB Active for work/Active for Life Program – Paul Meehan            | 1. The Committee endorses the program. The activity will be conducted as station drills.  
2. Information including a brochure on PTSD will be distributed to participants.  
3. The Program will also be offered to non-operational work sites. |
2. Report back for final endorsement at the February 2014 CC. |
| P4.1/12/2013 | Retirement, Resignation and Retention Survey – Lindsey Taylor        | 1. The Committee are not in a position to respond at this meeting. The UFU will respond at the February 2014 CC. |
| P4.5/11/2012 | HR Policies and Guidance Notes – Michael Davidson/Rini Krouskos      | 1. The MFB request the UFU provide comments in writing within 14 days.  
2. The UFU agree to the above. |
<p>| P3.7/05/2012 | Infrastructure Project Status Report – Greg Pearson                 |                                                                                                                                  |</p>
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
</tr>
</thead>
</table>
| P4.9/12/2012 | RADAP Recommendations – Greg Pearson  
   PAPER RECEIVED – YES  
   1. The following items are endorsed by the Committee:  
      - Endorsement of FS42 Newport, Stage 4 Detailed Design  
      - Endorsement of FS51 Keilor, Stages 4&5 Detailed Design  
      - Endorsement of FS01 Eastern Hill, SO Bathroom Works  
      - Endorsement of FS04 Brunwick, temporary PPE storage shed  
      - Endorsement of relocation of DTO's to old FS30, Templestowe |
| P6.5/12/2011 | FOLD - Victorian Emergency Management Training Centre - Craigieburn – David Bruce  
   1. CC notified of the change in the chair of the Transition Working Group. Kirstie Schroder has replaced Ken Brown who has moved to Special Operations.  
   2. Updated draft phase summary has been provided to the UFU.  
   3. The draft transition plan is proposed to be submitted to the February CC meeting. |
| RB2.4/03/2012 | Marine Response Update – Steve Watts/Ken Brown  
| P4.7/11/2012 | Fireground Accountability – David Youssef  
   1. Verbal report noted by the committee. |
| GB5.1/08/2013 | Changes to ECC Manager/Executive Recall Rosters having detrimental effects and impacting on personal life – Mark Swiney  
   PAPER RECEIVED – YES  
   1. The committee noted the report.  
   2. The UFU will respond to the MFB within 7 days. |
| P4.9/11/2012 | QWI019 Deployment, Task Force and Strike Teams – Surge Capacity – Mark Swiney  
   PAPER RECEIVED – YES  
   1. The MFB is disappointed that the UFU has advised that it is not in a position to endorse the work instruction, which was amended based on learnings from the Donnybrook fire.  
   2. The MFB will write to the UFU seeking that they consider and endorse the WI as soon as possible.  
   3. The MFB's intention in revising the document was to improve the usability of the document to assist safe and efficient operation of the service. |
<p>| GB5.1/10/2013 | New Units of competency in relation to incident control and |</p>
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>(amended title)</td>
<td>management – MFB</td>
</tr>
<tr>
<td></td>
<td>1. Defer item until February CC meeting.</td>
</tr>
</tbody>
</table>

**General Business**

<table>
<thead>
<tr>
<th>GB5.5/08/2012</th>
<th>MFB Safe</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Committee notes that the MFB has met the agreed training threshold and intends to implement MFBSafe on 3 February 2014.</td>
<td></td>
</tr>
</tbody>
</table>

**Next Meeting Details:**

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time:</th>
<th>Chair:</th>
</tr>
</thead>
<tbody>
<tr>
<td>02/2014</td>
<td>5 February 2014</td>
<td>1100-1500</td>
<td>UFU</td>
</tr>
</tbody>
</table>

Location: Metropole

Meeting closed at 1.43pm
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-4

This is the annexure marked “JLP-4” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
28 January 2014

Peter Marshall
Victoria Branch Secretary
United Firefighters Union
410 Brunswick St
Fitzroy Vic 3065

Dear Mr Marshall

Consultative Committee Meeting 1/2014 Paper P4.1/01/2014 Request for Information

The Greener Government Buildings Initiative presented at the January 2014 Consultative Committee meeting will contribute to achieving MFB's environmental strategy targets.

During the presentation of the Greener Government Buildings paper at the January 2014 consultative committee meeting, the UFU requested several pieces of information in relation to the initiative. Please find below the MFB's response to the queries arising from the presentation:

MFB’s submission to State Government
Any submissions to Government by the MFB are matters for the organisation and are not relevant to consultation with the UFU on any workplace changes arising from the introduction of the proposal.

Anticipated saving and comparison to FY06
Financial matters regarding this proposal are a matter for the MFB and are not relevant to consultation with the UFU on workplace changes arising from the introduction of the proposal.

UFU representative involvement in Steering Committee
The GGB steering committee has Alan Quinton representing operations. A representative from station level will be identified to be involved with detailed project review alongside the technical property managers, and I will notify you of who that is.
Projected time schedule of works for each location
No commitments have been made, however should MFB go ahead with this initiative, we would be happy to share the schedule of works for each location.

Information on Greener Government Buildings policy
Information on the Greener Government Buildings program is publicly available on the Department of Treasury and Finance website.

Standing Agenda Item
To be clear, the MFB is consulting with the UFU on the implementation of the entire proposal, to the extent that it affects employees. The MFB does not consider it necessary to seek endorsement for the implementation of each stage outlined in the proposal.

Having addressed the UFU requests presented at the consultative committee meeting, the MFB seeks written confirmation from the UFU that it supports the MFB’s energy and water conservation measures outlined in the Greener Government Buildings paper by 4 February 2014.

Yours sincerely

James Holyman
Executive Director Strategy & Innovation
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

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Matter Number: AG2014/5121

ANNEXURE JLP-5

This is the annexure marked "JLP-5" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Meeting Details

Meeting Number: 4/2014
Date: 2 April 2014
Time: 11:00 – 15:00
(Meeting opened: 11.30am)
Location: Metropole, Duncan Reilly Suite

Attendees:
Chair – Rini Krouskos
Gail Lawrence – Convener

MFB Representatives
Janette Pearce, Greg Pearson, David Bruce, David Youssef, Craig Lloyd, Greg Pearson, Adam Dalrymple

UFU Representatives
Mick Tisbury, Tony Martin, Danny Ward, Rini Krouskos

In Attendance: David Azzopardi, Gabby Woiski, Miriam Powell, Gavin Rooney

Agenda

No. ITEM

1 Apologies: Dave Hamilton, Brendan Angwin, Tony Trimble

2 Minutes of Previous Meeting
Minutes of February 2014 accepted by both parties

2 Minutes of Sub-Committee meetings
Noted
Acknowledgment and acceptance of these minutes does not constitute endorsement of matters addressed at Sub-Committees. To complete consultation matters must be referred back to the CC by the proposer and not the Chair of the Sub-Committee.

Training Sub-Committee minutes from January 2014 to be reviewed at the next Training Sub-Committee meeting. Item 4.2.

Proposals and Papers

P4.1/04/2014 Review Terms of Reference
1. MFB: It is the MFB's view that the UFU has breached the Consultative Committee Terms of Reference by not providing a quorum at the March 2014 Consultative Committee and the Sub-Committee meetings. The MFB has again reiterated that it is prepared to assist in releasing staff from duty as required to allow the UFU to have appropriate representatives at these meetings. On this basis the MFB cannot see any reason that future meetings should not occur.
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>UFU sees the Terms of reference as settled some time ago. This is another example of the MFB reaching agreement on matters and reneging.</td>
</tr>
<tr>
<td>3.</td>
<td>The UFU believes that the postponement of the March Consultative Committee has been well documented via correspondence between the parties and we see no reason to discuss further.</td>
</tr>
<tr>
<td>4.</td>
<td>The UFU again reiterates that unfortunately due to the high level of fire activity in Victoria our representatives were unable to meet at the scheduled time and we offered to set aside other times to meet to discuss any matters the MFB felt was urgent. No such request was forthcoming to the UFU.</td>
</tr>
<tr>
<td>5.</td>
<td>The MFB's view is that the Consultative Committee arrangements are an important element of the Operational Agreement and the Consultation Committee itself is the forum by which consultation occurs and that the MFB will not undertake consultation in an adhoc basis. It should also be noted that, while there was fire activity relating to the Hazelwood coalmine, that the MFB, due to its commitment to the consultative process, was able to meet its obligation in providing a number of senior officers including two Deputy Chief Officers to meet to ensure that consultation should occur as per the agreement.</td>
</tr>
</tbody>
</table>

**P4.1/03/2014**  
People Matter Survey 2014  
PAPER RECEIVED – Yes  
1. The UFU is willing to discuss particular issues in representing employees directly with the MFB in lieu of the MFB providing a good reason or justification for the survey.  
2. The MFB is disappointed that the UFU is not prepared to support the People Matter Survey 2014 and the MFB also notes that given that the March Consultative Committee did not occur there is little time for further consultation to occur prior to the survey taking place.  
3. The MFB has endeavoured to understand from the UFU what their concern is with the proposal, and given that the UFU has not provided details of concerns, the MFB can only assume that the UFU does not support the proposal.  
4. The UFU will discuss further with Branch Committee of Management.  

**P4.2/03/2014**  
Firecom Replacement Project  
PAPER RECEIVED – Yes  
1. The UFU can endorse the investigation/scoping exercise in to the Firecom Replacement to provide a report to Consultative Committee. The scoping exercise should be in the terms of the paper provided, except not as part of a larger project.  
2. The UFU request that the MFB tables the full paper with full proposal.  
3. The MFB notes the UFU's position and will provide a response in due course.  

**Report Backs**  
**P4.1/01/2014**  
Greener Government Buildings – Miriam Powell
**ITEM**

<table>
<thead>
<tr>
<th>Agenda No.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong> UFU: In relation to MFB submission to state government, we assume that the MFB hasn’t said anything different to government to what has been put to the committee. In relation to anticipated savings, it is the UFU view that it is relevant to productivity and that productivity itself is relevant so will list this as a future agenda item. In relation to having a UFU representative on the Steering Committee, we would like to nominate Mark Erwin as the employee representative. In relation to standing agenda item, it is the UFU view that the MFB should either be more clear or have an ongoing procedure.</td>
<td></td>
</tr>
<tr>
<td><strong>2.</strong> From the UFU response, the MFB is unable to ascertain if the UFU supports the proposal. The MFB will consider its position.</td>
<td></td>
</tr>
<tr>
<td><strong>3.</strong> UFU: The UFU is supportive of the proposal in principle. We simply want to address concerns.</td>
<td></td>
</tr>
<tr>
<td><strong>P5.1/11/2011</strong></td>
<td>Human Rights and Workplace Respect Training – Gabby Wolski and David Azzopardi</td>
</tr>
<tr>
<td><strong>1.</strong> UFU: The UFU position remains the same that it should continue to be dealt with through the Training Sub-committee.</td>
<td></td>
</tr>
<tr>
<td><strong>2.</strong> UFU: The UFU understands the proposal was close to being resolved at Training Sub-committee, before MFB broke its commitment and has caused confusion and problems with this issue refers to point 1.</td>
<td></td>
</tr>
<tr>
<td><strong>3.</strong> MFB: The MFB believes is has consulted on this issue and will be writing to the UFU in due course.</td>
<td></td>
</tr>
<tr>
<td><strong>P4.1/12/2013</strong></td>
<td>Retirement, Resignation and Retention Survey - Gabby Wolski and David Azzopardi</td>
</tr>
<tr>
<td><strong>1.</strong> The UFU does not necessarily see a clear need for this survey, however on the basis that it is voluntary, and the UFU receives a copy of the results, the UFU does not oppose its implementation.</td>
<td></td>
</tr>
<tr>
<td><strong>2.</strong> The MFB notes the UFU’s response and will consider its position.</td>
<td></td>
</tr>
<tr>
<td><strong>P4.12/09/2012</strong></td>
<td>RADAP Recommendations – Greg Pearson</td>
</tr>
<tr>
<td><strong>PAPER RECEIVED – Yes</strong></td>
<td></td>
</tr>
<tr>
<td><strong>1.</strong> The Consultative Committee endorses:</td>
<td></td>
</tr>
<tr>
<td>• The Project Infrastructure Management and consultation process map</td>
<td></td>
</tr>
<tr>
<td>• The Relocation of the Marine Facility from North Wharf to South Wharf as an interim arrangement pending further consultation at RADAP.</td>
<td></td>
</tr>
<tr>
<td><strong>P3.7/05/2012</strong></td>
<td>Infrastructure Project Status Report – Greg Pearson</td>
</tr>
<tr>
<td><strong>PAPER RECEIVED – Yes</strong></td>
<td></td>
</tr>
<tr>
<td><strong>1.</strong> The committee notes the report.</td>
<td></td>
</tr>
<tr>
<td><strong>P4.9/11/2012</strong></td>
<td>OWI019 – Deployment, Task Force and Strike Teams</td>
</tr>
<tr>
<td><strong>1.</strong> The UFU endorse OWI019 as it stood at 8 January 2013.</td>
<td></td>
</tr>
<tr>
<td><strong>2.</strong> The MFB notes the UFU’s position.</td>
<td></td>
</tr>
<tr>
<td><strong>3.</strong> If the MFB wish to progress this matter the UFU would like clear and detailed explanations for the changes proposed by the MFB.</td>
<td></td>
</tr>
<tr>
<td>Agenda No.</td>
<td>ITEM</td>
</tr>
<tr>
<td>-----------</td>
<td>------</td>
</tr>
<tr>
<td>P3.2/06/2012</td>
<td>Generic Specifications for Pods and Modules – Po Chung</td>
</tr>
<tr>
<td></td>
<td>PAPER RECEIVED</td>
</tr>
<tr>
<td></td>
<td>1. The Committee endorses the proposal and acknowledges the work completed on the project thus far.</td>
</tr>
<tr>
<td>P4.1/07/2013</td>
<td>ARM360 Spatial Data Collection Project – Gavin Rooney</td>
</tr>
<tr>
<td></td>
<td>PAPER RECEIVED</td>
</tr>
<tr>
<td></td>
<td>1. The committee notes the report.</td>
</tr>
</tbody>
</table>

**General Business**

**VEMTC**

1. UFU: The UFU notes that in line with RADAP recommendations, a drill site inspection will occur on Friday 4 April 2014. It is the UFU’s view that there is further detail that still needs to be consulted on e.g. new props, new work, applicable allowances and any outstanding matters that may arise and we reserve our right to raise them as necessary. The UFU also seeks clarification from the MFB as to whether they will abide by their commitment to pay instructors the previously agreed allowance for work outside the MFD.

2. The MFB has provided its position to the UFU in correspondence from the Acting CEO.

**Next Meeting Details:**

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time: 1100-1500</th>
<th>Chair: MFB</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/2014</td>
<td>7 May 2014</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Location:** Metropole

Meeting closed at 1:51pm
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-6

This is the annexure marked "JLP-6" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.

11094386/1
Dear Mr. Lloyd,

I write to you in relation to your email sent to MFB employees on 10th December 2012 concerning changes to internet access.

By your own admission this is both a change to work practice and new policy.

Under the Operational Staff Agreement 2010 and Administrative and Operational Support Staff Agreement 2005 the MFB is required to consult in relation to such changes including changes to MFB policy.

As consultation has not taken place the UFU notifies you of a grievance in accordance with clause 19.

As this is a new policy the status quo provisions apply and as such internet access should continue as prior to your attempted introduction of the new policy until this matter is settled.

The UFU is also aware the this change to policy is affecting employees ability to effectively carry out their work.

I look forward to your response.

Yours Sincerely,

Rini Krouskos
Industrial Officer
United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: io3@ufuvic.asn.au

The above message is from an external source to the MFB. MFB policy governs use of IT systems. Accordingly all messages have their content scanned for security risks and compliance. For details of MFB policy and procedures, please refer to the MFB Intranet. If you do not know the sender, and the content is spurious - treat the message as SPAM or a virus and delete it.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-7

This is the annexure marked "JLP-7" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms Krouskos,

On further advice, I advise that the MFB’s position in relation to this matter is that the recent restrictions placed on the use of MFB internet connections do not constitute a change in practice, but rather a change to the way in which the MFB manages its resource. On this basis, the MFB further advise that it is our position that this matter does not constitute grounds for a grievance nor is it a matter that should be discussed at Consultative Committee.

We therefore advise that we believe there is no longer a need for the MFB to meet with the UFU in regard to this matter. If the UFU would like to provide suggestions as to how the internet usage can be managed better, we would invite you to provide these suggestions to Craig Lloyd via email.

ours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearse@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-8

This is the annexure marked “JLP-8” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Mr. Hogan,

I refer you to the emails below notifying the MFB of a grievance in relation to the restriction on staff Internet access. As this matter was not resolved at step 3 of the dispute resolution process we are escalating the matter to you at step 4.

The dispute resolution process outlines that at step 4 a meeting should be convened to discuss the issue.

The UFU would request that you advise of a suitable meeting time.

Yours Sincerely,

Rini Krouskos
Industrial Officer

United Firefighters Union
410 Brunswick Street
Melbourne 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: io3@ufuvic.asn.au
Yours Sincerely,

Rini Krouskos
Industrial Officer

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: io3@ufuvic.asn.au

Dear Mr. Eddington,

I write in relation to the UFU’s grievance over restrictions to staff internet access. The UFU would request a meeting with you ASAP in order to resolve this issue.

Could you please advise of your availability for such a meeting.

The UFU would also propose that we would be able to settle the grievance subject to the matter being referred to the Consultative Committee so that consultation can occur and the status quo being applied so that internet access would return as normal (pre the attempted introduction of the new policy) until full consultation has occurred and resolution on the matter is reached.

Yours Sincerely,

Rini Krouskos
Industrial Officer

From: Rini Krouskos
Sent: Monday, 17 December 2012 1:23 PM
To: EDDINGTON, Russell
Cc: Casey Lee; Rini Krouskos
Subject: FW: Notification of grievance in relation to staff internet access

Dear Mr. Eddington,

I write in relation to the UFU’s grievance over restrictions to staff internet access. The UFU would request a meeting with you ASAP in order to resolve this issue.

Could you please advise of your availability for such a meeting.

The UFU would also propose that we would be able to settle the grievance subject to the matter being referred to the Consultative Committee so that consultation can occur and the status quo being applied so that internet access would return as normal (pre the attempted introduction of the new policy) until full consultation has occurred and resolution on the matter is reached.

Yours Sincerely,

Rini Krouskos
Industrial Officer

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: io3@ufuvic.asn.au

From: Rini Krouskos
Sent: Thursday, 13 December 2012 7:28 PM
To: EDDINGTON, Russell
Cc: Casey Lee; Rini Krouskos
Subject: FW: Notification of grievance in relation to staff internet access

Dear Mr. Eddington,

As stated in the email below the UFU notified the MFB of a grievance yesterday concerning the MFB new policy restricting internet access of MFB employees.
As the matter could not be resolved at step 1 of the dispute resolution procedure under the Agreement we are escalating the matter to you in accordance with step 2.

To reiterate, the new restrictions placed on MFB employees is both a change in work practice and a new policy. As such you are required to consult with the UFU prior to implementing the policy.

In this instance consultation has not occurred.

Further, it is the UFU's understanding that this new policy has significantly hindered the ability of employees to undertake legitimate work related tasks and has the potential to impact on community safety.

The UFU also reminds you that accordance with the dispute resolution procedure status quo applies. We therefore insist that the MFB does not implement the policy until consultation has occurred in line with your obligations under the Agreement.

Could you please confirm that status quo will apply in this matter?

I look forward to your response.

Sincerely,

Rini Krouskos
Industrial Officer

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: io3@ufuvic.asn.au

---

From: Rini Krouskos  
Sent: Wednesday, 12 December 2012 9:47 AM  
To: 'clloyd@mfb.vic.gov.au'  
Cc: Casey Lee; Rini Krouskos  
Subject: Notification of grievance in relation to staff internet access

Dear Mr. Lloyd,

I write to you in relation to your email sent to MFB employees on 10th December 2012 concerning changes to internet access.

By your own admission this is both a change to work practice and new policy.

Under the Operational Staff Agreement 2010 and Administrative and Operational Support Staff Agreement 2005 the MFB is required to consult in relation to such changes including changes to MFB policy.

As consultation has not taken place the UFU notifies you of a grievance in accordance with clause 19.

As this is a new policy the status quo provisions apply and as such internet access should continue as prior to your attempted introduction of the new policy until this matter is settled.

The UFU is also aware the this change to policy is affecting employees ability to effectively carry out their work.

I look forward to your response.
Yours Sincerely,

Rini Krouskos  
Industrial Officer  

United Firefighters Union  
410 Brunswick Street  
Fitzroy 3065  
Ph: (03) 9419 8811  
Fax: (03) 9419 9258  
Email: io3@ufuvic.asn.au

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The MFB is committed to minimising its impact on the environment. Please consider the environment before printing this e-mail.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-9

This is the annexure marked "JLP-9" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms Krouskos,

In accordance with my previous response at Step 3, we confirm that the MFB maintains its position that the MFB's decision to restrict employee use of internet resources for personal use is merely a change to the way in which the MFB manages its internet resources. On this basis, the MFB believes that this matter does not constitute grounds for a grievance nor is it a matter that should be referred to the Consultative Committee for discussion as it is the organisation's prerogative to manage its resources, including its internet connection, as it deems necessary.

Internet access is provided to employees for legitimate business use and reasonable personal use, and whilst the MFB supports employees utilising the internet for these purposes, due to the excessively high level of personal use, the MFB are unable to provide employees with unlimited access for personal use.

If employees require blocks to be removed to allow them to undertake their necessary duties, they can contact ICS and work with them to remove the ban from the sites they use for work. In regard to personal internet access however, the limit of 60 minutes per day for various categories will continue to apply.

On the basis that the MFB do not consider this matter to be grounds for a grievance, we advise that we do not believe that there is a requirement to meet and discuss this matter in accordance with the grievance process.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-10

This is the annexure marked "JLP-10" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
From: Rini Krouskos  
Sent: Thursday, 24 January 2013 1:41:17 PM (UTC+10:00) Canberra, Melbourne, Sydney  
To: HOGAN, Sean  
Cc: Lee, Casey (UFU); Rini Krouskos  
Subject: FW: Lodgement of form F10

Dear Mr. Hogan,

Please find attached by way of service Form F10 lodged with Fair Work Australia today.

Yours Sincerely,

Rini Krouskos  
Industrial Officer  

United Firefighters Union  
410 Brunswick Street  
Fitzroy 3065  
Ph: (03) 9419 8811  
Fax: (03) 9419 9258  
Email: io3@ufuvic.asn.au

---

From: Rini Krouskos  
Sent: Thursday, 24 January 2013 1:41 PM  
To: melbourne@fwc.gov.au  
Cc: Rini Krouskos  
Subject: Lodgement of form F10

Good Afternoon,

Please find attached form F10 for lodgment.

Please contact me if you require anything further.

Yours Sincerely,

Rini Krouskos  
Industrial Officer
The above message is from an external source to the MFB. MFB policy governs use of IT systems. Accordingly all messages have their content scanned for security risks and compliance. For details of MFB policy and procedures, please refer to the MFB intranet. If you do not know the sender, and the content is spurious - treat the message as SPAM or a virus and delete it!

The MFB is committed to minimising its impact on the environment. Please consider the environment before printing this e-mail.
Form F10  Application for FWA to Deal with a Dispute in Accordance with a Dispute Settlement Procedure

IN FAIR WORK AUSTRALIA

APPLICANT FOR FWA TO DEAL WITH A DISPUTE IN ACCORDANCE WITH A DISPUTE SETTLEMENT PROCEDURE

Fair Work Act 2009—s.739 etc.

Applicant

Name: United Firefighters Union of Australia – Victoria Branch
Title [if applicable]  Mr [ ] Mrs [ ] Ms [ ] Other [ ] specify:
Address: 410 Brunswick Street
Suburb: Fitzroy  State: VIC  Postcode: 3065
If the Applicant is a company or organisation:
Contact person: Rini Krouskos  ABN: 74030569256
Contact details for the Applicant or contact person (if one is specified):
Telephone: 03 9419 8811  Mobile: [redacted]
Fax: 03 9419 9258  Email: io3@ufuvic.asn.au

Applicant’s representative (if any)

Name:  
ABN: [if applicable]
Address:  
Suburb:  State:  Postcode:  
Contact person:  
Telephone:  Mobile:  
Fax:  Email:  

Respondent(s) (Party/Parties with whom the Applicant is in dispute)

Name: Metropolitan Fire and Emergency Services Board  
ABN: 28 598 558 561
Address: 456 Albert Street
Suburb: East Melbourne  State: VIC  Postcode: 3002
Contact person: Sean Hogan [if known]
Telephone: 03 9662 2311  Mobile: [redacted]
Fax: 03 9665 4244  Email: SHOGAN@mfb.vic.gov.au

1. What is the industry of the employer?
   Firefighting

2. Relevant instrument:
The dispute is referred to FWA pursuant to a dispute settlement procedure in:
Name of instrument:
Metropolitan Fire and Emergency Services Board & United Firefighters Union
Operational Staff Agreement 2010
Agreement ID: AG2010/14662

Type of instrument:
[Tick the appropriate box.]

- [ ] modern award;
- [x] enterprise agreement (made under the Fair Work Act 2009 after 1 July 2009);
- [ ] workplace agreement (made under the Workplace Relations Act 1996 after 26 March 2006);
- [ ] certified agreement (made under the Workplace Relations Act 1996 on or before 26 March 2006);
- [ ] AWA, ITEA or an individual preserved state agreement;
- [ ] contract of employment or other written agreement with a procedure for dealing with disputes in relation to the NES or a safety net contractual entitlement;
- [ ] other (please specify):

Please attach a copy of the dispute settlement procedure.

3. Clauses to which the dispute relates:
Clauses 19, 13 and 30

4. What is the dispute about?
1. On or about the 11th December 2012 the UFU became aware that the MFB was restricting the access of staff to the internet under a new policy/work practice without any consultation with the UFU as required under clause 13 and 30 of the Operational Staff Agreement. In accordance with clause 19 of the Agreement the UFU subsequently notified the MFB of a grievance on the 12th of December 2012.

2. The MFB response to date has been that they are not required to consult on this matter.

3. This dispute has progressed through the 4 steps outlined in the Dispute Resolution clause in the Agreement (clause 19) and remains unresolved.

5. Does this application relate to a refusal by an employer of a request by an employee for flexible working arrangements?

- [ ] Yes
- [x] No
6. Does this application relate to a refusal by an employer of a request by an employee for extension of unpaid parental leave?

[  ] Yes
[ x] No

7. Relief sought:
The assistance of Fair Work Australia in resolving the dispute.

8. Steps already taken under dispute settlement procedure:
12/12/2012- UFU notifies grievance. MFB rejects grievance.
13/12/2012- UFU escalates grievance to step 2.
17/12/2012- UFU follows up grievance at step 2.
20/12/2012- As no response UFU escalate to step 3 and request a meeting to discuss the matter.
24/12/2012- MFB rejects grievance at step 3 and refuse UFU request to meet and discuss.
04/03/2013- UFU escalates grievance at step 4.
11/01/2013- MFB reject grievance and refuse UFU request to meet and discuss.

Date: 11th December 2012
Signature:

Name: Peter Marshall
Capacity/Position: Secretary,
United Firefighters Union
(Victorian Branch)

Service requirements

This application (including any supporting documentation lodged with the application) must be served on the named Respondent(s) to the dispute as soon as practicable after the document is lodged with FWA.

Serving a document means giving a copy of the document to the person being served in a manner provided for in the Fair Work Australia Rules 2010. Rule 9 sets out the ways in which a document can be served. For example, to serve a company it is sufficient if a copy of the documents is sent by Express Post (retaining the sender’s copy of the identifying barcode), registered post or delivered by hand, to the company’s registered office or its principal place of business.
This form should also be used for an application for FWA to deal with a dispute in accordance with a dispute resolution procedure in an agreement made under the *Workplace Relations Act 1996* and other transitional instruments (see Schedule 19 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*).
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-11

This is the annexure marked “JLP-11” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
RECOMMENDATION

Fair Work Act 2009
s.739 - Application to deal with a dispute

United Firefighters' Union of Australia
v
Metropolitan Fire and Emergency Services Board
(C2013/2832)

COMMISSIONER ROE

MELBOURNE, 6 FEBRUARY 2013

Alleged dispute concerning a new policy restricting staff access to the internet.

Arising from a conference at FWA on 6 February 2013 the parties agreed to the following Recommendation in respect to the dispute about consultation concerning implementation of restrictions on staff access to the internet. The Recommendation is made without prejudice to the position of the MFB that this is not a matter which is subject to consultation and to the position of the UFU that it is.

1. The UFU is to advise in 7 days if they accept the principle that existing IT and workplace behaviour policies limit use of the internet for private purposes and that the MFB can implement reasonable time limit restrictions on private use subject to consultation on implementation process and details.

2. If the UFU advise in the affirmative the matter will be considered at the March consultative committee meeting. In preparation for that meeting the MFB will provide a proposal paper by 20 February and the UFU will provide a paper raising issues and draft proposals by 27 February. In the event that the matter is not finalised or is delayed through this process then either party can relist the matter.

3. If the UFU advises in the negative the matter can be relisted.

COMMISSIONER
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-12

This is the annexure marked “JLP-12” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms. Pearce,

In response to your email the UFU's position on this matter is as follows.

The UFU is prepared to accept the Commissioner's recommendation in accordance with the following:

* The UFU position with respect to current policy is that there is some broad policy which may be applicable, however there is also other policy which has not undergone consultation, for instance the screen message when persons log onto the computer system. This is a complex question without a simple general answer. Further, the acceptable use of the internet throughout the MFB may vary depending on work location, role and other details. We accept that some limitation is applicable.

* The current complex situation may add to the need for clear policy.

If the MFB is in a position to accept the above offer to resolve this matter, please reply in the positive so as we can commence preparation for the consultation process.

Yours Sincerely,

Rini Krouskos
Industrial Officer

United Firefighters Union
410 Brunswick Street
 Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: io3@ufuvic.asn.au

-----Original Message-----
From: PEARCE, Janette [mailto:JPEARCE@mfb.vic.gov.au]
Sent: Monday, 18 February 2013 2:05 PM
To: Rini Krouskos; NASSIOS, Melissa
Cc: LLOYD, Craig
Subject: RE: C2013/2832 - Recommendation 6/02/13

Dear Ms Krouskos,

We note the UFU's advice that they will provide a response early this week, however the MFB respectfully request that the UFU provide a response in regard to this matter by close of business today.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-13

This is the annexure marked “JLP-13” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms Krouskos,

Thank you for your email in regard to this matter.

In response to the matters raised in your first dot point, the MFB provides the following by way of response:

1. The MFB do not consider its Workplace Behaviour Policy, and in this particular instance, clause 10 of the Policy to be broad. The policy clearly sets out the expectations and limitations regarding employee use of MFB information technology systems and equipment.

2. The MFB do not consider the message displayed when an employee logs on to their computer to be a new policy requiring consultation. The message that is displayed is consistent with the policy contained in the Workplace Behaviour Policy and simply alerts employees to the standard of behaviour and performance when using MFB IT Systems.

3. The MFB have advised previously that if employees have special IT use needs, they can contact ICS for assistance. These situations have and will continue to be dealt with on a case by case basis.

We note the UFU’s acceptance that the MFB has the ability to implement reasonable time limit restrictions under the current provisions of its current Workplace Behaviour Policy, and as such in accordance with the Commissioners recommendation, the MFB attach for the UFU’s review our proposal (in draft form) in regard to this matter.

We will await the UFU’s response to the attached proposal in preparation in accordance with the Commissioners recommendation, and will have the matter included onto the agenda for discussion at the Consultative Committee meeting to be held on 6 March 2013.

Yours sincerely,
Janette Pearce

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
METROPOLITAN FIRE AND EMERGENCY SERVICES BOARD

REPORT TO CONSULTATIVE COMMITTEE

DIRECTORATE: Corporate Services
(Information and Communication Services)

SUBJECT: Implementation plan for personal internet restrictions

MEETING DATE: 6 March 2013

ATTACHMENTS:
Attachment 1 – Clause 10 of the MFB Workplace Behaviour Policy.
Attachment 2 – Proposed content for email communication to Employees and Management.

REFERENCES:

EXECUTIVE SUMMARY

• The purpose of this proposal is to seek endorsement of the implementation process relating to the introduction of the 60 minute daily restriction on non-business related internet use.

RECOMMENDATION:

In accordance with the Consultative Clause 13 in the Operational Staff Enterprise Agreement, that the implementation process and details contained in this proposal be endorsed by the Consultative Committee for commencement on 1 April 2013.

Russell Eddington
Executive Director Corporate Services

Date: ...........................................
Consultative Committee Agenda Item

**Purpose**
To inform the consultative committee of the proposed implementation regarding the introduction of the 60 minute restriction on non-business related internet use.

**Background**
In accordance with the Recommendation of Commissioner Roe (dated 6 February 2013), the MFB and the UFU have agreed that:

1. The current MFB Workplace Behaviour Policy allows the MFB to implement reasonable time limit restrictions on non-business related internet use; and

2. That the parties will consult on the implementation process and details relating to these restrictions.

This paper outlines the MFB's proposed implementation process regarding the introduction of the 60 minute per day non-business related internet use restrictions.

**Issues**
Prior to introduction of the 60 minute restrictions, the MFB proposes to undertake the following to communicate the restrictions to staff and management:

1. Email Communication to employees informing them:
   a. That access to the internet for non-business related use is restricted to a maximum of 60 minutes per day (subject to Clause 10 of the MFB Workplace Behaviour policy) (see “Attachment 1”);
   b. That they can seek assistance from ICS and their Manager to remove the block from sites used for legitimate work purposes.

2. Manager Communication via Email detailing the following:
   a. That employee access to the internet for non-business related use is restricted to a maximum of 60 minutes per day (subject to Clause 10 of the MFB Workplace Behaviour policy);
   b. How they can assist employees who experience difficulties as a result of legitimate work related sites being blocked by the software.

**Employee Implications**
The 60 minute personal email restriction does not prohibit employee personal use of the internet, and thus personal internet usage will not be impacted. If employees find that genuine work related internet sites are blocked, they can seek assistance to have these sites unblocked.

**Engagement and Communication**
The Stakeholders to be engaged as part of this proposal are:
Employees (both directly and through consultation with the UFU);
Managers; and
Information and Communication Services

The proposed communications to Employees and Managers is attached to this recommendation at "Attachment 2"
Consultative Committee

Recommendation/s

That the implementation process and details contained in this proposal be endorsed by the Consultative Committee for commencement on 1 April 2013.

<table>
<thead>
<tr>
<th>AUTHOR:</th>
<th>Craig Lloyd</th>
</tr>
</thead>
<tbody>
<tr>
<td>POSITION:</td>
<td>Chief Information Officer</td>
</tr>
<tr>
<td>DATE:</td>
<td>20 February 2013</td>
</tr>
<tr>
<td>Ref:</td>
<td></td>
</tr>
</tbody>
</table>

ELT SIGN OFF:

DATE:
10 Inappropriate Use of MFB Information Technology Systems

10.1 Scope

The MFB Information Technology Systems are business tools which support MFB organisational objectives and purposes. Limited personal use is permitted provided that it does not impact on an employee's work performance or breach MFB policies.

MFB Information Technology Systems refers to all MFB systems. This includes, but is not limited to:

- Computer systems including servers, central systems and PCs;
- Email and messaging system;
- Internet usage;
- Screen savers;
- Wallpaper;
- Bulletin board;
- File storage on any MFB PC or Network File Area; and
- Communication systems and facsimile machines.

10.2 Policy

Any use of MFB Systems must be in accordance with this policy.

MFB Systems must not be used for any inappropriate purpose or Unacceptable Behaviour. This applies to the storing, saving, display, download, print, receipt or sending of material on MFB Systems. This includes:

- any material which causes any person to reasonably feel intimidated, insulted, offended or humiliated because of that content and that relates to a person's presumed, actual or imputed sexual orientation, gender, race, age, physical features, national or ethnic origin, religious or political beliefs, or any disability and any other attribute on the basis of which discrimination is prohibited under state and federal anti-discrimination legislation as amended from time to time;
any material which contains obscene or sexually offensive messages; sexually explicit or suggestive, pornographic, obscene or inflammatory remarks, images or sounds - this includes jokes of a sexual kind including sexually explicit cartoons even if they are not necessarily pornographic;

- any material which contains defamatory messages, namely, remarks that are untrue and/or malicious and/or insulting and/or attack the character or reputation of any individual or group;

- any material which is abusive, offensive, insulting or threatening or invade the privacy of a person;

- any material which causes disruption to the workplace environment, such as excessive personal use during work hours which interrupts work, mass mailing of jokes, chain letters and other frivolous communications, or could constitute a criminal offence;

- any material which infringes intellectual property rights of other people - copyright laws protect most material appearing on the internet and due consideration must be given to this issue when forwarding material to other persons as the MFB may be liable for breach of copyright;

- any material which contains unwarranted or unsolicited materials including but not limited to "spamming" or "letter bombing";

- any material which contains messages that represent any personal opinion as being the opinion of the MFB;

- misusing of the MFB computer system (eg tampering, introducing viruses or unauthorised access of another's person email, internet, documents or computer use);

- accessing any inappropriate internet sites including those concerning:
  - adult entertainment including obscene or sexually offensive or sexually explicit or suggestive content;
  - sexual violence;
  - pornography;
  - illicit drug reference;
  - hacking;
  - illegal activities;
  - militancy/terrorism;

22 March 2010
10.3 Access and Monitoring

In accordance with the policy, the MFB reserves the right, at any time, without the need for first giving notice to staff, to:

- monitor, access and copy emails, internet usage and general computer usage;
- filter and block offensive emails or internet attachments or sites including video or picture links and attachments;
- censor and screen offensive or non-business related internet material;
- provide access to, and copies of, email, internet or general computer use to law enforcement agencies if illegal or if criminal acts are suspected.

It is a condition of the use of the MFB System that an employee complies with this policy and agrees to the terms of the policy including those related to the MFB's right to monitor and access computer usage.

10.4 Confidentiality and Complaints

The MFB will use its best efforts to ensure that the contents of any emails or internet access remain confidential other than for the purposes of disciplinary investigations and legal proceedings or for law enforcement authority purposes.

The MFB will take disciplinary action against any employee who breaches the policy which may include, depending on the circumstances, the termination of employment.

Messages from employee representatives on the computer system are permitted only where authorised by the relevant Union Secretary and are otherwise in accordance with this policy.

Any employee who feels they have been exposed to Unacceptable Behaviour as a result of any inappropriate use of the computer system should make a complaint. Complaints will be dealt through the Issue Resolution Procedure.
Communication to Employees:

The MFB has previously written to all employees advising them of the MFB’s 60 minute per day personal internet use restriction.

We have been advised that there was some confusion as to what this restriction meant for them both in their personal and work related use of the internet. The following guidelines are provided to assist employees in understanding both their entitlements and obligations when using MFB IT Systems and Resources.

What are the MFB introducing these restrictions?

The MFB Workplace Behaviour Policy has always provided ‘limited’ employee personal internet use, however the MFB has identified that current personal use of the internet is excessive and if not managed appropriately, will pose a significant cost on the organisation.

The MFB were careful not to place a prohibition on employees personal internet use by blocking websites typically used for personal reasons (i.e. Face Book, Twitter, YouTube and Internet Banking) and it was for this reason that the MFB decided to specify a 60 minute per day limit on personal internet use.

How does the 60 minute restriction work?

Access to sites that are for personal use are restricted to a maximum 60 minutes per day;

Restrictions will continue to apply to some sites that are blocked (i.e. Pornography, Gambling etc). Further detail on the kind of sites and content that are prohibited are set out in the MFB Workplace Behaviour Policy which can be found on the Intranet at [Insert Hyperlink].

You do not have to use your 60 minutes at one time. Employees can access sites for smaller intervals as they need, however the total maximum is 60 minutes per day.

When accessing sites that are deemed to be for personal use, a screen will appear (see below) notifying you that the time restriction applies to the access and you will need to click on “??” to proceed with accessing the site.

Searches on Google do not activate the time restriction; the notification screen will only appear once you have selected the link that you require from your Google search.

What if the Restriction Screen appears when I am accessing a website for work purposes?

There may be employees who require access to particular sites that are directly related to their work that are impacted by the time restrictions can contact ICS to have these sites removed from the restriction software.
Only sites used for legitimate work purposes will be removed from the restriction, and in some instances ICS will require verification from the Employees Manager that the site is used for legitimate work purposes before the restriction is removed.

If employees experience difficulties in having sites removed from the restrictions, they are encouraged to speak with their Managers for assistance.

If employees experience any problems or have questions in regard to this matter they are encouraged to seek further information from their departmental manager or supervisor.
Communication to Managers:

The MFB has previously written to all employees advising them of the MFB's 60 minute per day personal internet use restriction.

Managers will be a reference point for employees who have questions about the restrictions and or those employees who are experiencing difficulties in accessing sites for legitimate work reasons.

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***** RESTRICTION SCREEN IMAGE TO BE INSERTED HERE*****

What should I do about employees experiencing difficulties undertaking their duties as a result of the restriction?

Employees who experience difficulties accessing websites for legitimate work reasons can have the restrictions removed to enable them to access these websites.
With some websites, it will be clear that access is required for the employee to undertake their duties (i.e. Media and Communications Department accessing Facebook and Twitter or online Media websites for greater than 60 minutes per day); however in some instances ICS may request verification from you as the employee's manager before removing the restriction from the site.

Only sites used for legitimate work purposes will be removed from the restriction.

Employees have been advised that if they experience difficulties in obtaining access to sites for work purposes that they can seek assistance though their manager. Please ensure that employees concerns are dealt with expeditiously and fairly to avoid any need for formal disputes.
Dear Ms Krouskos,

Further to our previous communications regarding the MFB's implementation proposal paper, we advise that the paper has been reviewed and slightly adjusted.

I have attached a copy of this revised version and have highlighted where changes have been made. Most of the changes are word sequencing or typographical changes.

Whilst we expecting the UFU's comments and feedback in regard to this proposal by 27 February 2013, which we will naturally consider once received, we will forward the attached proposal and amended annexures to Sofie for inclusion on the Agenda.

I believe that Craig Lloyd will be in attendance at this meeting to speak in regard to this paper.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
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The MFB has previously written to all employees advising them of the MFB’s 60 minute per day personal internet use restriction.

We have been advised that there was some confusion as to what this restriction meant for them both in their personal and work related use of the internet. The following guidelines are provided to assist employees in understanding both their entitlements and obligations when using MFB IT Systems and Resources.

Why are the MFB introducing these restrictions?
The MFB Workplace Behaviour Policy has always provided ‘limited’ employee personal internet use, however the MFB has identified that current personal use of the internet is excessive and if not managed appropriately, will pose a significant cost on the organisation.

The MFB was careful not to place a prohibition on employees personal internet use by blocking websites typically used for personal reasons (i.e. Face Book, Twitter, YouTube and Internet Banking) and it was for this reason that the MFB decided to specify a 60 minute per day limit on personal internet use.

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As a Manager you have an obligation to uphold the workplace behaviour policy and an ethical, productive and acceptable workplace.
METROPOLITAN FIRE AND EMERGENCY SERVICES BOARD

REPORT TO CONSULTATIVE COMMITTEE

DIRECTORATE: Corporate Services  
(Information and Communication Services)

SUBJECT: Implementation plan for personal internet restrictions

MEETING DATE: 6 March 2013

ATTACHMENTS:
Attachment 1: Clause 10 of the MFB Workplace Behaviour Policy.
Attachment 2: Proposed content for email communication to Employees
Attachment 3: Proposed content for email communication to Managers.

REFERENCES:

EXECUTIVE SUMMARY

- The purpose of this proposal is to seek endorsement in regard to the implementation process of the 60 minute daily allocation of non-business related internet use.

RECOMMENDATION:

In accordance with the Consultative Clause 13 in the Operational Staff Enterprise Agreement, that the Consultative Committee endorse:

- The implementation process and details contained in this proposal; and
- The Employee and Management Communications attached to this proposal

to enable to commencement of the daily allocation on 1 April 2013.

Russell Eddington  
Executive Director Corporate Services  
Friday 22 February, 2013
Purpose
To inform the consultative committee of the proposed implementation process in
regard to the introduction of the 60 minute maximum daily allocation for non-business
related internet use.

Background
In accordance with the Recommendation of Commissioner Roe (dated 6 February
2013), the MFB and the UFU have agreed that:

1. The current MFB Workplace Behaviour Policy allows the MFB to implement
   reasonable time limit restrictions on non-business related internet use; and

2. That the parties will consult on the implementation process and details relating
to these restrictions.

This paper outlines the MFB's proposed implementation process regarding the
introduction of the 60 minute per day allocation for non-business related internet use.

Issues
Prior to introduction of the 60 minute maximum daily allocation, the MFB proposes to
implement the daily allowance through detailed communication to staff and
management:

1. Email Communication to employees (see "Attachment 2") informing them:
   a. That access to the internet for non-business related use is restricted to
      a maximum of 60 minutes per day (subject to Clause 10 of the MFB
      Workplace Behaviour policy) (see "Attachment 1");
   b. That they can seek assistance from ICS and their Manager to remove
      the block from sites used for legitimate work purposes.

2. Email communication to Manager’s (see "Attachment 3") informing them:
   a. That employee access to the internet for non-business related use is
      restricted to a maximum of 60 minutes per day (subject to Clause 10 of
      the MFB Workplace Behaviour policy) (see "Attachment 1");
   b. How they can assist employees who experience difficulties as a result
      of legitimate work related sites being blocked by the software.

Employee Implications
The 60 minute maximum daily personal internet use allocation does not prohibit
reasonable employee personal use of the internet. [...] If employees find that genuine
work related internet sites are blocked, they can seek assistance to have these sites
unblocked.
Engagement and Communication
The Stakeholders to be engaged as part of this proposal are:

- Employees (both directly and through consultation with the UFU);
- Managers; and
- Information and Communication Services

The proposed communications to Employees and Managers is attached to this recommendation (see "Attachment 2" and "Attachment 3").

Recommendation/s
In accordance with the Consultative Clause 13 in the Operational Staff Enterprise Agreement, that the Consultative Committee endorse:

- The implementation process and details contained in this proposal; and
- The Employee and Management Communications attached to this proposal to enable to commencement of the daily allocation on 1 April 2013.

| AUTHOR: | Craig Lloyd |
| POSITION: | Chief Information Officer |
| DATE: | 22 February 2013 |
| Ref: | |
| ELT SIGN OFF: | |
| DATE: | |
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-14

This is the annexure marked "JLP-14" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms Krouskos,

We note that in accordance with the Recommendation of Commissioner Roe in regard to this matter, the UFU were to provide the MFB with a paper outlining issues and draft proposals by 27 February 2013. We advise that we have not yet received the UFU’s paper.

As we conveyed at the Conciliation Conference, the MFB is seeking a timely resolution to this matter and would appreciate your response by COB today to enable us to consider the UFU’s paper and discuss any points of difference prior to the Consultative Committee meeting.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
Dear Ms Krouskos,

Further to our previous correspondence, we advise that we have not received the UFU’s response in regard to the MFB’s proposed implementation plan as per the Commissioners Recommendation.

It is important that this matter be resolved in a timely fashion, as such, we again request that the UFU provide the MFB with any feedback by COB today to enable us to discuss any points of difference prior to the consultative committee meeting.

We look forward to hearing from you in regard to this matter.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board
Dear Ms Pearce,

Unfortunately due to another urgent matter the UFU has been delayed in providing feedback. We will endeavour to provide any feedback by close of business today.

Yours Sincerely,

Rini Krouskos.

Sent from my iPhone

On 01/03/2013, at 9:45 AM, "PEARCE, Janette" <JPEARCE@mfb.vic.gov.au> wrote:

Dear Ms Krouskos,

Further to our previous correspondence, we advise that we have not received the UFU’s response in regard to the MFB’s proposed implementation plan as per the Commissioners Recommendation.

It is important that this matter be resolved in a timely fashion, as such, we again request that the UFU provide the MFB with any feedback by COB today to enable us to discuss any points of difference prior to the consultative committee meeting.

We look forward to hearing from you in regard to this matter.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board
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T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

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Matter Number: AG2014/5121

ANNEXURE JLP-15

This is the annexure marked "JLP-15" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
**Consultative Committee Meeting**

**Meeting Details:**

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time:</th>
<th>Location:</th>
</tr>
</thead>
<tbody>
<tr>
<td>03/2013</td>
<td>6 March 2013</td>
<td>11.20 am – 3.45 pm</td>
<td>Brunswick Room</td>
</tr>
</tbody>
</table>

**Attendees:**

- David Bruce – Chair
- Sofia Antonakis - Convener
- MFB Representatives
  - Mark Swiney, Janette Pearce, Adam Dalrymple, Greg Pearson, Peter Thomas
- UFU Representatives
  - Dave Hamilton, Tony Trimble, Danny Ward, Casey Lee, Brendan Angwin, Mick Tisbury, Rini Krouskos, Ken Brown

**In Attendance:**

1. 2. 3.

**Action:**

<table>
<thead>
<tr>
<th>No</th>
<th>ITEM</th>
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<tbody>
<tr>
<td>1.</td>
<td>Apologies</td>
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</tbody>
</table>

1. Minutes of Previous Meeting
   - February 2013
   - Accepted

2. Minutes of Sub-Committee Meetings
   - Notes
   - Acknowledgment and acceptance of these minutes does not constitute endorsement of matters addressed at Sub-Committees. To complete consultation matters must be referred back to the CC by the proposer and not the Chair of the Sub-Committee.

**Report Backs**

- **P4.5/09/2012**
  - Hydrant Location Survey – Ben Morris
  - Paper received – YES
  - Action Items:
    1. Proposal endorsed based on a communication being sent out to all Commanders and David Bruce to contact Firevision to release DVD.

- **P3.7/05/2012**
  - Infrastructure Project Status Report – Greg Pearson
  - Paper received - YES
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
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<tbody>
<tr>
<td><strong>Action Items:</strong></td>
<td></td>
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<tr>
<td>1.</td>
<td>No significant change to previous report.</td>
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<tr>
<td>2.</td>
<td>Report was noted by the Committee.</td>
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<tr>
<td>3.</td>
<td>UFU proposed that an interim prospective simple numbering system be implemented for all new infrastructure items. MFB to report back at the April CC meeting.</td>
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**P4.12/09/2012**  
RADAP Recommendations – Greg Pearson  
Paper received – YES  
**Action Items:**  
1. UFU endorse the plans; total bedrooms 22, overflow locker room subject to the sign off sheet being completed and presented to RADAP at their next meeting.

**RB2.4/03/2012**  
Marine Response Update (verbal report) – Ken Brown and Steve Watts  
**Action Items:**  
- Modifications to FS39 to accommodate the additional WR staff are underway and should be completed by the 1st week of April.  
- Rostering principles are being developed for fire station 39, consultation is ongoing with the rostering committee.  
- The proposed relocation date has been put back to 18:00 Friday the 3rd of May, 2013. This will allow for the principles to be endorsed and for effective planning of the move.  
- The tender for the 12m vessel is in its final stages with a report back through the subcommittee to the consultative committee next month.  
- All marine training is being managed by Operational training with support from the Marine Project Office as required.  
- The updated FSV survey certificate for the interim fire boat is expected to be completed in the 2 week of March.  
- UFU request a report back on FS47 at the next CC meeting.

**P5.8/11/2011**  
Implementation of Rehab Unit Trial – Dave Hamilton (verbal report)  
**Action Items:**  
1. UFU to respond to the content of the survey.

**P4.6/10/2012**  
Payment in Lieu of Long Service Leave – UFU response  
**Action Items:**  
1. UFU propose in place of dot point 6 "in exceptional circumstances based on genuine welfare needs employees will be able to access payout of long service leave. Applications will be treated in an equitable and consistent manner."  
2. Additional drafting required under dot point 2 Scope – "until a date at the MFB’s discretion" should change to "until a change to this policy".  
3. Additional drafting to point 6, after 1958 insert "MFB employees are entitled to LSL under the industrial instruments".  
4. Should the reference of 10 years be 7 years?  
5. Additional drafting, dot point 4, commencement of the leave should
<table>
<thead>
<tr>
<th>P4.5/11/2012</th>
<th>Policies &amp; Guidance Notes – UFU response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Action Items:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Annual Leave Policy; issues with approval of leave, negative leave, time of leave, approval by CEO.</td>
<td></td>
</tr>
<tr>
<td>2. Transfer Policy – issues with rostering, suitability of position.</td>
<td></td>
</tr>
<tr>
<td>3. UFU listed a large number of what they consider to be serious problems with the policies as presented to explain how the UFU considers there to be comprehensive problems.</td>
<td></td>
</tr>
<tr>
<td>4. General UFU concerns include:</td>
<td></td>
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<tr>
<td>• Breaches of industrial instruments;</td>
<td></td>
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<tr>
<td>• Confusing wording;</td>
<td></td>
</tr>
<tr>
<td>• Inconsistent with practices across the MFB;</td>
<td></td>
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<tr>
<td>• Replicating and confusing terms of industrial instruments;</td>
<td></td>
</tr>
<tr>
<td>• Structural issues with policies including confusion regarding content or “responsibilities” sections.</td>
<td></td>
</tr>
<tr>
<td>• Duplication and confusion created by multiple documents dealing with the same issues;</td>
<td></td>
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<tr>
<td>• UFU not included in references to seeking advice regarding operation of conditions and employment and professional development staff provided new role of providing industrial advice to employees;</td>
<td></td>
</tr>
<tr>
<td>• Language and definition issues including for example, use of the term “operational manager”.</td>
<td></td>
</tr>
<tr>
<td>• Numerous references to other documents which have not been provided.</td>
<td></td>
</tr>
<tr>
<td>5. The UFU notes that due to the major problems with these documents, comments raised in this meeting cannot be considered to be exhaustive.</td>
<td></td>
</tr>
<tr>
<td>6. MFB propose to contact the author of the policies and guidance notes with a view of meeting with the UFU to discuss their concerns. UFU response is that we have just listed many concerns showing major problems and that the MFB should withdraw their proposal, if after the MFB review the proposal, they are of the view that the proposal is satisfactory, the UFU request that the MFB put this position in writing including explanations to justify this position.</td>
<td></td>
</tr>
<tr>
<td>7. The MFB wishes to progress the staff action form and are seeking the UFU’s support in the introduction of the staff action form.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>P4.3/10/2012</th>
<th>GARS Enhancement 2012 – MFB response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Action Items:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Darren Davies to follow up with Mark Swiney and Danny Ward and report back at the April CC meeting.</td>
<td></td>
</tr>
</tbody>
</table>

<p>| P4.3/09/2012 | Uvex Tinted Safety Glasses – David Bruce |</p>
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paper received – YES</td>
<td></td>
</tr>
<tr>
<td>Action Items:</td>
<td></td>
</tr>
<tr>
<td>1. Proposal endorsed.</td>
<td></td>
</tr>
</tbody>
</table>

**P4.1/10/2012**  
**A New Era in Emergency Management – MFB Response**  
1. UFU is concerned that the MFB is not being open and transparent in regard to their position with respect to change. The UFU again formally requests that the MFB provide MFB inputs to any engagement or consultation with respect to the White Paper, inclusive of written submission, presentations and recommendations.  
2. The MFB will not be responding.  
3. UFU notes total disappointment with the MFB especially given the MFB’s public comments with respect to transparency and accountability.

**P4.3/11/2012**  
**Use of “whereis” internet based mapping in relation to recalls – MFB response**  
**Action Items:**  
1. The UFU note the emails from Andrew Zammit and Aaron Hogan and will respond within 7 days.

**P4.1/12/2012**  
**Transporter 47 and Pumper 39B – UFU response**  
**Action Items:**  
1. Ken Brown to report back with update at the April CC meeting.

**P4.2/10/2012**  
**Operations Procedure – Stations Inspections ER 011 – UFU response**  
**Action Items:**  
1. Parties to consider between now and the next CC meeting.  
2. Mark Swiney to resend the document including tracked changes.

**P4.9/11/2012**  
**OWI 019 Deployment, Task Force and Strike Teams – Surge Capacity – UFU response**  
**Action Items:**  
1. MFB withdraws the document after further consideration.  
2. UFU understands that the document has been withdrawn due to no issues raised by the UFU.

**P4.11/1/2012**  
**Fitness Leader Registration and Activity Requirements – UFU response**  
**Action Items:**  
1. MFB position is that this is part of the grievance process and as part of the resolution of this grievance, the MFB have offered to make time available to resolve the grievance through discussions with the UFU.  
2. UFU as previously advised have come to this meeting ready, willing and able to consult on this matter. We are disappointed the MFB have
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
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<tbody>
<tr>
<td></td>
<td>not. UFU request matter be listed for the next CC meeting.</td>
</tr>
<tr>
<td>P6.18/12/2011</td>
<td>Sick leave evidence going missing in mail – MFB response</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. Both parties agree that this matter is now complete.</td>
</tr>
<tr>
<td>P4.4/11/2012</td>
<td>Drill Site Approval Forms – MFB response</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. Action Item from February CC minutes - MFB writing back to UFU re timelines and definitions of major drills within 7 days to be sent out.</td>
</tr>
<tr>
<td>GB5.1/02/2013</td>
<td>Common Doctrine Project – Casey Less</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. UFU requesting an explanation from the MFB as to why they won’t consult on this issue despite previous assurances.</td>
</tr>
<tr>
<td></td>
<td>2. MFB (David Bruce) to write to the UFU by close of business Friday 8 March 2013.</td>
</tr>
<tr>
<td>P3.6/02/2012</td>
<td>Mechanical Loader – Dave Hamilton</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. In the short term split the Mechanical Loader training from the Forklift training.</td>
</tr>
<tr>
<td></td>
<td>2. MFB to respond at the April CC meeting. (MFB will be taking the issue to ROC.)</td>
</tr>
<tr>
<td>P6.20/12/2011</td>
<td>MFB Forklift Training – Dave Hamilton</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. Forklift Training will commence in line with the yearly training plan.</td>
</tr>
<tr>
<td></td>
<td>2. Expressions of interest to be developed following ROC meeting.</td>
</tr>
<tr>
<td>GB5.2/02/2013</td>
<td>Exercise Coldzone – MFB response</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. UFU recognises correspondence from Chris Watt. Chris Watt will liaise with Danny Ward in regards to any possible industrial matters arising from the drill.</td>
</tr>
<tr>
<td>P3.12/04/2012</td>
<td>Windows 7 &amp; Office 2010 SOE Project –</td>
</tr>
<tr>
<td></td>
<td>Action Items:</td>
</tr>
<tr>
<td></td>
<td>1. MFB position is that this is part of the grievance process and as part of the resolution of this grievance, the MFB trying to resolve this grievance through discussions with the UFU outside of the CC.</td>
</tr>
<tr>
<td></td>
<td>2. UFU maintains that this agenda item has not been fully consulted and will be placed on the agenda for the April CC meeting.</td>
</tr>
</tbody>
</table>
|            | 3. The UFU is also concerned about selective application of when a grievance is issued, whether or not it will be discussed at CC. We seek
Proposals

P4.1/03/2013  Implementation plan for personal internet restrictions –
Paper received - YES
Action Items:

1. The UFU find that the proposal is misleading and would like to know what the proposal is trying to achieve. The following questions were raised by the UFU:
2. What is the evidence that shows that your current personal use of internet of MFB employees is excessive?
3. What are the expected cost savings?
4. What are the productivity gains for the organisation?
5. Is the MFB considering selling off IT infrastructure, in particular to the broadband network? And then renting the internet use at a higher monthly cost?
6. What is the upfront saving?
7. Is it an aggressive step? Do you have any concerns about future proofing the MFB?
8. Is the issue of downtime after a particular bad incident? Concerned about employees trying to seek information on health issues, HSR’s.
9. Do Executive Directors have an overriding code? Do they have the same 60 minute restrictions?
10. Why was optic fibre put in place? How was it perceived to be used in the future? What is it capable of? Why are you trying to reduce it? Is it part of fire service budget cuts?
11. How old is the policy in the proposal? Has it been agreed to?
12. UFU would like a copy of analysis on firefighter’s requirements to use the internet, if one has been conducted by the MFB.
13. MFB will respond to the above questions within 14 days.

P4.2/03/2013  Replacement of the QRAE + Multi gas detector – Costa Katsikis
Paper received – YES
Action Items:

1. Proposal referred to V&E Sub-Committee with a report back to this Committee.
2. Interference testing will occur.
3. UFU representative will be included in determining options for trial.
4. Any disputes will be referred to this Committee.

P4.3/03/2013  Class A Foam – Darren McQuade (another item from Darren as well)
Paper received – YES
Action Items:

1. Referred to RADAP with a report back to this Committee.
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
</tr>
</thead>
</table>
| P4.3/02/2013 | Pilot Mentoring Program – Lindsey Taylor & Joel Dare  
Paper received – YES  
Action Items:  
1. Deferred to April CC meeting. |
| P4.4/03/2013 | People Matter Survey 2012 results – Lindsey Taylor  
Paper received – YES  
Action Items:  
1. UFU has no comment at this time on the results of this survey. |
Paper received – YES  
Action Items:  
1. Deferred to April CC meeting. |

**General Business**

| GB5.1/03/2013 | Access to Burnley After Hours – Ken Brown  
Action Items:  
1. Discussions to take place regarding FS CoS given authority to provide remote access to appropriate personnel.  
2. Report back at the April CC meeting. |

Meeting closed at 3.45 pm

**Next Meeting Details**

<table>
<thead>
<tr>
<th>Meeting Number</th>
<th>Date</th>
<th>Time</th>
<th>Chair</th>
</tr>
</thead>
<tbody>
<tr>
<td>04/2013</td>
<td>3 April 2013</td>
<td>1300-1500</td>
<td>Dave Hamilton (UFU)</td>
</tr>
</tbody>
</table>

**Location:** Metropole
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-16

This is the annexure marked "JLP-16" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Mr Lee,

To assist the parties in advancing an outcome in regard to this matter the MFB agreed at Conciliation before Commissioner Roe to consult on the implementation of the 60 minute restriction. The MFB has not deviated from its view that we do not believe that we need to consult on the MFB’s ability to enforce reasonable personal Internet use, as this is a matter that:

- Is permissible under the MFB’s Workplace Behaviour Policy 2010, (as agreed and endorsed by the Consultative Committee in 2010); and
- It is the MFB’s prerogative to manage its internet resource as it deems necessary.

The Fair Work Commission provided reasonable timeframes within which the parties were to exchange information and feedback. To ensure this matter was not delayed, the UFU were required to provide their feedback in response to the MFB’s proposal by 27 February 2013, prior to the March 2013 Consultative Committee, to enable the MFB to consider the UFU’s feedback and provide a response. The MFB did not receive this feedback on the date agreed at Conciliation, and despite the MFB’s repeated requests for feedback the UFU instead chose to provide the MFB with a list of 17 questions, which the MFB considers to have no relevance to this matter.

The purpose of the proposal was not to seek endorsement of the MFB’s ability to implement the 60 minute personal Internet restriction. The MFB therefore advises that we do not believe that the questions raised are in any way related to the MFB’s proposal, and relate to the MFB’s internet resource capabilities and costs, which is not relevant in this circumstance.

We therefore seek the UFU’s feedback in regard to the proposed implementation plan as presented in our proposal by 5:00 pm on Friday 29 March 2013. This will enable the MFB to consider the UFU’s feedback and provide a report back at the April Consultation Committee meeting. Should the MFB not receive feedback by this date, we will conclude that the UFU do not have any objections to the proposed implementation at the April 2013 Consultative Committee meeting.

If the matter remains unresolved following the April Consultative Committee meeting, the MFB will seek to have the matter re-listed before Fair Work Australia as per the Commissioners Recommendation.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture
Metropolitan Fire & Emergency Services Board
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

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Matter Number: AG2014/5121

ANNEXURE JLP-17

This is the annexure marked “JLP-17” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Casey,

We refer to our previous correspondence in regard to this matter dated 21 March 2013 (see below).

We note that we have not received any feedback from the UFU in response to the aforementioned correspondence, nor have we received a response to the proposed implementation plan as presented at the March 2013 Consultative Committee meeting. Therefore the MFB once again requests a response from the UFU in regard to the proposed implementation plan as outlined in our proposal.

Whilst it is acknowledged that this matter was not discussed at the April meeting due to time restraints, the MFB requests that the UFU provide their response as previously communicated by 5:00 pm on Wednesday 24 April 2013. This will enable the MFB to consider the UFU's feedback and views and to be in a position to provide a report back at the May Consultation Committee meeting.

Should the MFB not receive a response as requested by the abovementioned date, and this matter again not be discussed at the May Consultation Committee Meeting, the MFB will seek to have this matter re-listed before Commissioner Roe in accordance with his recommendation.

Yours sincerely,

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au

Dear Mr Lee,
To assist the parties in advancing an outcome in regard to this matter the MFB agreed at Conciliation before Commissioner Roe to consult on the implementation of the 60 minute restriction. The MFB has not deviated from its view that we do not believe that we need to consult on the MFB’s ability to enforce reasonable personal internet use, as this is a matter that:

- Is permissible under the MFB’s Workplace Behaviour Policy 2010, (as agreed and endorsed by the Consultative Committee in 2010); and
- It is the MFB’s prerogative to manage its internet resource as is deems necessary.

The Fair Work Commission provided reasonable timeframes within which the parties were to exchange information and feedback. To ensure this matter was not delayed, the UFU were required to provide their feedback in response to the MFB’s proposal by 27 February 2013, prior to the March 2013 Consultative Committee, to enable the MFB to consider the UFU’s feedback and provide a response. The MFB did not receive this feedback on the date agreed at Conciliation, and despite the MFB’s repeated requests for feedback the UFU instead chose to provide the MFB with list of 17 questions, which the MFB considers to have no relevance to this matter.

The purpose of the proposal was not to seek endorsement of the MFB’s ability to implement the 60 minute personal internet restriction. The MFB therefore advises that we do not believe that the questions raised are in any way related to the MFB’s proposal, and relate to the MFB’s internet resource capabilities and costs, which is not relevant this circumstance.

Therefore seek the UFU’s feedback in regard to the proposed implementation plan as presented in our proposal by 5:00 pm on Friday 29 March 2013. This will enable the MFB to consider the UFU’s feedback and provide a report back at the April Consultation Committee meeting. Should the MFB not receive feedback by this date, we will conclude that the UFU do not have any objections to the proposed implementation at the April 2013 Consultative Committee meeting.

If the matter remains unresolved following the April Consultative Committee meeting, the MFB will seek to have the matter re-listed before Fair Work Australia as per the Commissioners Recommendation.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture
Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

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Matter Number: AG2014/5121

ANNEXURE JLP-18

This is the annexure marked “JLP-18” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Minutes of Previous Meeting April 2013 - NOT ACCEPTED</td>
</tr>
<tr>
<td></td>
<td>MFB would like dot point 3 deleted from the April minutes with regard to Agenda item P6.22/12/2011 Human Rights and EEO Training. UFU does not accept the minutes based on the above and would like MFB to write to UFU as to why they would like to delete the dot point mentioned above.</td>
</tr>
<tr>
<td>2</td>
<td>Minutes of Sub-Committee Meetings</td>
</tr>
<tr>
<td></td>
<td>Notes</td>
</tr>
<tr>
<td></td>
<td>Acknowledgment and acceptance of these minutes does not constitute endorsement of matters addressed at Sub-Committees. To complete consultation matters must be referred back to the CC by the proposer and not the Chair of the Sub-Committee.</td>
</tr>
</tbody>
</table>

Report Backs

<table>
<thead>
<tr>
<th>P6.22/12/2011</th>
<th>Firefighter Recall System – Brad Quinn (verbal report)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Update:</td>
<td>1. 12 month trial has been completed. 217 responses to the survey have been received since the trial on how to improve the system. 3 new versions have been developed. System will be owned by the IT</td>
</tr>
<tr>
<td>Agenda No.</td>
<td>ITEM</td>
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<tr>
<td><strong>department.</strong></td>
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<tr>
<td><strong>Action Items:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Proposal endorsed by UFU and MFB.</td>
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<tr>
<td><strong>P4.3/10/2012</strong></td>
<td><strong>GARS Enhancement 2012 – Darren McQuade (verbal report)</strong></td>
</tr>
<tr>
<td><strong>Action Items:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Report was noted by the Committee.</td>
<td></td>
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<tr>
<td>2. MFB to work on current document with Danny Ward to bring back to CC.</td>
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<tr>
<td>3. UFU to seek consideration from BCOM and any amendment(s) to brought back to CC.</td>
<td></td>
</tr>
<tr>
<td><strong>P4.7/11/2012</strong></td>
<td><strong>Fireground Accountability – Darren McQuade (verbal report)</strong></td>
</tr>
<tr>
<td><strong>Action Items:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Report was noted by the Committee.</td>
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<tr>
<td>2. A working model will be demonstrated in 2 months from today.</td>
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<tr>
<td>3. Darren Davies to report on whether consultation with R&amp;D has occurred (as per minutes of the Special Meeting on this issue).</td>
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<tr>
<td>4. The MFB to look at fulfilling their obligation to inform all staff on reinforcing strike team arrangements.</td>
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<tr>
<td>5. MFB to update on progress on CFA Firefighter safety and discussions will the CFA in regards to interoperability, (as per the minutes of the Special Meeting on this issue).</td>
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<tr>
<td>6. MFB have yet to review Management Incident Systems. A report back on this item is requested at the June CC meeting.</td>
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<tr>
<td>7. A further update requested at the June CC meeting.</td>
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<tr>
<td><strong>P3.7/05/2012</strong></td>
<td><strong>Infrastructure Project Status Report – Greg Pearson</strong></td>
</tr>
<tr>
<td><strong>Paper received – YES</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Action Items:</strong></td>
<td></td>
</tr>
<tr>
<td>1. With regards to the March minutes: &quot;UFU proposed that an interim prospective simple numbering system be implemented for all new infrastructure items. MFB to report back at the April CC meeting.&quot; The UFU will now write to the MFB to assist in the implementation of the numbering system.</td>
<td></td>
</tr>
<tr>
<td><strong>P4.12/09/2012</strong></td>
<td><strong>RADAP Recommendations – Greg Pearson</strong></td>
</tr>
<tr>
<td><strong>Paper received – YES</strong></td>
<td></td>
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<tr>
<td><strong>Action Items:</strong></td>
<td></td>
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<tr>
<td>1. The 2 proposals are endorsed once the following has occurred: signatures are required from the HSR and ACFO on the build and demolition of 46 station sign off sheet. MFB to resubmit once signatures are received at the June CC meeting.</td>
<td></td>
</tr>
</tbody>
</table>
| 2. Eastern Hill Half Life Refit – The UFU is not currently in the position to endorse the proposal of the Half Life Fit Out due to major concerns, privacy and health and safety issues raised by the membership and on
considered consultation with the membership the UFU will put an alternative proposal to the MFB as soon as practical.

3. The UFU and the MFB highlights that the review of the station design brief in particular needs to look and consider the effect on larger fire station refurbishments such as FS 1.

4. In light of the discussions and inability to resolve these issues within the 12/13 financial year, the current project will cease and any new proposals will need to be considered as part of the normal project management framework bidding process and budget cycle.

<table>
<thead>
<tr>
<th>Date</th>
<th>Action Items:</th>
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<tbody>
<tr>
<td>P4.5/11/2012</td>
<td>Policies &amp; Guidance Notes – Response from UFU:</td>
</tr>
<tr>
<td></td>
<td>1. UFU were unable to provide a response as Michael Werle has yet to respond to the action items from the April CC meeting which are listed below:</td>
</tr>
<tr>
<td></td>
<td>• Michael Werle to provide the UFU with a scope of use for Operational Staff at the Staff Action Form and once received if the UFU are satisfied with the scope provided they may agree for the form to be used prior endorsement at the next CC meeting. Michael Werle to provide a report back to this Committee in 3 months (July CC meeting) to consult on any changes that may be required.</td>
</tr>
<tr>
<td></td>
<td>• Michael Werle and Rini Krouskos to convene and discuss the Policies and Guidance Notes in detail proposed by the MFB.</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Date</th>
<th>Action Items:</th>
</tr>
</thead>
<tbody>
<tr>
<td>RB2.4/03/2012</td>
<td>Marine Response Update (verbal report) – Steve Watts (including Marine Response Guidelines, Marine Transition Plan and Marine Response Rostering Principles)</td>
</tr>
<tr>
<td></td>
<td>1. Steve Watts to edit Marine Guidelines document, removing reference to Special Ops station and replace with agreed permanent facility (P47).</td>
</tr>
<tr>
<td></td>
<td>2. MFB confirms that the return to the status quo i.e. removal of lockers, etc at FS47 will occur as soon as possible after P47B goes out of commission.</td>
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<tr>
<td></td>
<td>3. Refer number of showers and toilets to RADAP to be reviewed over the first 3 months to identify issues arising and that they are referred to the issues register.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Action Items:</th>
</tr>
</thead>
<tbody>
<tr>
<td>P4.2/10/2012</td>
<td>Transporter 47 and Pumper 39B – Ken Brown (verbal report)</td>
</tr>
<tr>
<td></td>
<td>1. Once information has been received from the survey a further update will be given at the next meeting.</td>
</tr>
</tbody>
</table>

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<tbody>
<tr>
<td>P5.8/11/2011</td>
<td>Implementation of Rehab Unit Trial – David Bruce (verbal report)</td>
</tr>
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</thead>
<tbody>
<tr>
<td>P4.6/10/2012</td>
<td>Payment in Lie of Long Service Leave – UFU response</td>
</tr>
<tr>
<td>Agenda No.</td>
<td>ITEM</td>
</tr>
<tr>
<td>-----------</td>
<td>------</td>
</tr>
</tbody>
</table>
| P4.3/11/2012 | Action Items:  
1. Rini Krouskos to respond directly to Executive Director People & Culture.  
2. Use of “whereis” internet based mapping in relation to recalls – UFU response  
Action Items:  
1. UFU to respond at or before the next CC meeting. |
| P4.1/12/2012 | Operations Procedure – Stations Inspections ER 011 – Response from both parties  
Action Items  
1. UFU to respond at the June CC meeting. |
| P4.11/11/2012 | Fitness Leader Registration and Activity Requirements – UFU & MFB  
1. UFU wishes to discuss this issue, MFB will not as it is subject to a grievance. |
| P4.4/11/2012 | Drill Site Approval Forms – MFB response  
Action Items:  
1. The MFB will discuss at Senior Commander level and report back at the June CC meeting. |
| GB5.1/02/2013 | Common Doctrine Project – MFB response  
Action Items:  
1. Deferred to June meeting. |
| P3.6/02/2012 | Mechanical Loader – MFB response  
Action Items:  
1. MFB is considering issues with the Training calendar and will report back at the next CC meeting. |
| P4.1/03/2013 | Implementation plan for personal internet restrictions – Craig Lloyd  
Paper received – YES  
Action Items:  
1. MFB will not answer any of the questions raised by the UFU from the March CC meeting.  
2. UFU again requested that the questions raised at the March CC meeting be answered.  
3. The UFU would like to note that the OH&S Policy Sub-Committee recommended to the CC that internet access changes are suspended to ensure employees are able to access sites that support health and safety and allow this issue to be discussed between the parties.  
4. UFU requested that the following clause 13.1 Consultation of the Operations Staff Agreement be read into the minutes as it is at a loss to understand how it can fulfill its obligations in the context of Mr Lloyd’s actions representing the MFB. MFB reaffirms that Mr Lloyd represents the MFB and not as an individual. |
### P3.12/04/2012 Windows 7 & Office 2010 SOE Project – UFU & MFB
**Action Items:**
1. UFU wishes to discuss this issue, MFB will not as it is subject to a grievance.
2. Brendan Angwin requested copy of the original Business Case on this issue.

### P4.2/04/2013 Expenses Chart Proposal – UFU response
**Action Items:**
1. The UFU have requested that this be referred to RADAP. The MFB agreed to this request.

### Rostering 14/12/11

#### F1 Firefighter Deployment Principles – Shane Rhodes and Phil Rogan
**Paper received – YES**
**Action Items:**
1. Proposal endorsed by both parties.

#### Remote Area Lighting System on Fire Duty Pods and Rescue Units – Andrew Dixon
**Paper received – YES**
**Action Items:**
1. MFB and UFU endorse the purchase of the remote area lighting system and
2. All issues around placement on appliances be referred to V&E before being commissioned with a report back to this Committee for final endorsement.

#### Traineeships of socio-economically disadvantaged youth – Rini Krouskos
**Action Items:**
1. MFB and UFU support the activity. The MFB will examine what has been done in the past and report back to the UFU at the June CC meeting.

### General Business

#### GBS.1/05/2013 MFB Display at the Training College - UFU
**Action Items:**
1. MFB to discuss this issue with the Commander involved to reinforce guidelines in providing drills or exercises.

#### GBS.2/05/2013 MFB note on agenda: “The MFB will not consider matters that are subject to a grievance at Consultative Committee meetings as there is a separate process for dealing with these matters.”

The Chair at the April CC meeting commented on the note that appeared on the agenda regarding grievances not being discussed. UFU position is that this is not agreed. MFB position is that the comment was added to
agenda as MFB will not discuss matters that are part of a grievance unless
directed by FWA. UFU position is that this is a change from past custom and
practice and in accordance with the EBA, consultation must take place, so
the UFU request that this change be added to the next CC agenda to be
discussed in June. The MFB does not agree.

Meeting closed at 3.11 pm

Next Meeting Details:
Meeting Number: 06/2013
Date: 5 June 2013
Time: 1300-1500
Chair: David Hamilton (UFU)
Location: Metropole
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-19

This is the annexure marked "JLP-19" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
### Consultative Committee Meeting

**Meeting Details:**

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time:</th>
<th>Location:</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/2013</td>
<td>7 August 2013</td>
<td>11.00 am - 4.05 pm</td>
<td>Charles Marshall Room</td>
</tr>
</tbody>
</table>

**Attendees:**

Dave Hamilton – Chair  
Gail Wrigley - Convenor  
MFB Representatives  
David Youssef, David Bruce, Janette Pearce, Mick Swift, Greg Pearson, Simon Whiteshead (Observer)  
UFU Representatives  
Rini Kroukos, Brendan Angwin, Mick Tisbury, Rob Psaila  

**In Attendance:** Matt Hunter, Nasi Georgostathis, Stuart Collis, Will Glenn, Tim Wadsworth, Ken Brown, Bill Drysdale, Andrew O’Connell, Darren Davies and Graeme Arms

### Agenda

<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
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<tbody>
<tr>
<td></td>
<td>Apologies</td>
</tr>
<tr>
<td></td>
<td>Adam Dalrymple, Peter Thomas, Casey Lee, Tony Trimble, Danny Ward</td>
</tr>
</tbody>
</table>
| 1.         | Minutes of Previous Meeting  
|            | July 2013 – accepted |
| 2.         | Minutes of Sub-Committee Meetings  
|            | Notes |
|            | Acknowledgment and acceptance of these minutes does not constitute endorsement of matters addressed at Sub-Committees. To complete consultation matters must be referred back to the CC by the proposer and not the Chair of the Sub-Committee. |

### Proposals

| P4.1/08/2013 | Health and Fitness “MFB Active for work/Active for life” program – Matt Hunter  
<p>|             | Paper received – YES |
|             | Action Items: |
|             | 1. Referred to Operations Health &amp; Safety Sub-Committee for content review. |
|             | 2. UFU raised concerns regarding delivery at fire stations, combined drills. Confirmed by Matt Hunter – one off. |</p>
<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>P4.2/08/2013</td>
<td>Use of additional CBES Collapsible Dams – Nasi Georgostathis</td>
<td>Paper received – YES Action Items: 1. Referred to V&amp;E Sub-Committee to coordinate placement on the appliance. 2. Needs to be incorporated into the HAZMAT training.</td>
</tr>
<tr>
<td>P4.3/08/2013</td>
<td>New appliance Electronic Stability Program – Stuart Collis</td>
<td>Paper received – YES Action Items: 1. Referred to Training Sub-Committee. 2. UFU raised concerns regarding resources in driver training department.</td>
</tr>
<tr>
<td>P3.3/03/2012</td>
<td>Appliance Development – Ladder Platform – Stuart Collis</td>
<td>Paper received: YES Action Items: 1. Continues to progress through V&amp;E Sub-Committee. 2. Received report back. 3. Information on modifications. Safety issue has sign off and resolution.</td>
</tr>
<tr>
<td>P6.1/12/2011</td>
<td>UAV Project to commence 12 month trial – Will Glenn and Tim Wadsworth</td>
<td>Paper received: YES Action Items: 1. Proposal to begin trial 23 August 2013. D Platoon only. Currently 2 qualified pilots. 2. Future referral of training to Training Sub-Committee. 3. UFU raised concerns regarding the training still in development phase. 4. UFU seeks an allowance for operators as per clause 43.2. 5. Trial endorsed for 12 monthly. D Platoon only. 6. When agreed training completed other platoons can be utilised. 7. Future report back to CC to update on progress of trial and training. 8. 6 month and 12 month review endorsed as part of the trial. 9. If MFB wish to deploy outside of MFD or D Platoon, this should be managed on a case by case basis.</td>
</tr>
<tr>
<td>Date</td>
<td>Description</td>
<td>Action Items</td>
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</table>
| RB2.4/03/2012 | Marine Response Update – Ken Brown (verbal report)                          | 1. Tabled letter from Dr Ian Miller confirming: providing that the operators follow training there are no issues around the defibrillator being used on MFB Fireboat 1.  
2. Confirmed by the Committee that there are no protocols for EMR response in the marine environment.  
3. Ken Brown undertakes to have an EMR clinician session on Fireboat 1 and seek support of Water Police in this.  
4. Consultative Committee endorse use of defibrillator on Fireboat 1. |
| P4.1/07/2013   | ARM360 Spatial Data Collection Project – Bill Drysdale                       | 1. Report received and distributed to the Committee. |
| P4.2/07/2013   | Alteration to the current air consumption rates from BA in line with actual data from sets currently in operation – Andrew O’Connell   | 1. Both parties acknowledge the completion of the changeover BA procedure package.  
2. Note validation of the report.  
3. Update received regarding Merlin Telemetry. Further reports to follow. |
2. URL distributed document titled “Protocols for use of GPS System included in Fireground Accountability” to Committee.  
3. MFB confirm the tracking functionality will not be utilised during the month trial period.  
4. Consultative Committee endorse 1 month trial period to begin 2 September 2013 with no tracking component in Central District.  
5. Prior to and concurrent with the trial the parties will engage in discussion aimed at achieving agreement on protocols. If agreement cannot be reached in regards to the protocols the issue will be referred back to the Consultative Committee and situation will revert to use of spreadsheet. |
| P6.16/12/2011  | Crash Recovery System – Graeme Arms                                        | 1. 3 month trial is completed with positive feedback.  
2. Consultative Committee endorse extension of trial by 2 months. |
<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Action Items</th>
</tr>
</thead>
</table>
| P4.3/07/2013 | Hose Keys for High Rise Packs – Graeme Arms                           | 1. Hose key and diagram presented to the Committee.  
2. Include in training packs and communicate with Operations Improvement.  
3. Consultative Committee endorse inclusion of new Hose Keys in High Rise Packs. |
| P3.7/05/2012 | Infrastructure Project Status Report – Greg Pearson                   | Paper received – YES  
Action Items:  
1. Report was noted by the Committee.  
2. Report no reflects projects in 2013/14 financial year. |
Action Items:  
1. Verbal report was noted.  
2. The Committee noted status report.  
3. Consultative Committee endorses RADAP’s recommendations for Fire Station 16 for half-life detailed design plans.  
4. Also endorsed RADAP’s recommendations for Fire Station 52 half-life rent concept plan including additional 5th bedroom. |
| P5.8/11/2011 | Implementation of Rehab Unit Trial – David Bruce (verbal report)      | Action Items:  
1. Survey results being sent through OH&S Policy Sub-Committee before returning to Consultative Committee in September. |
| P4.4/11/2012 | Drill Site Approval Forms – MFB response                               | Action Items:  
1. Ongoing. |
| GB5.1/02/2013| Common Doctrine Project – MFB response                                  | Action Items:  
1. Ongoing. |
| GB5.1/07/2013| State Training Framework – response from MFB                          | Action Items:  
1. Verbal report by David Youssef noted regarding current status from Peter Rau.  
2. UFU seek detailed report in regards to the state training framework project for consideration in regards to industrial implications to the |
### Agenda Item No. 120

**operational staff.**

### General Business

**GBS.1/08/2013**

Changes to Executive Recall Rosters having detrimental effects and impacting on personal life

**Action Items:**

1. MFB to look into issues raised by Brendan Angwin and report back to September Consultative Committee.

Meeting closed at 4.05 pm

### Next Meeting Details:

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time:</th>
<th>Chair:</th>
</tr>
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<tbody>
<tr>
<td>09/2013</td>
<td>4 September 2013</td>
<td>1100-1500</td>
<td>David Youssef (MFB)</td>
</tr>
</tbody>
</table>

Location: Metropole
IN THE FAIR WORK COMMISSION

<table>
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<tr>
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<td>Section:</td>
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</tr>
<tr>
<td>Matter Number:</td>
<td>AG2014/5121</td>
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</tbody>
</table>

ANNEXURE JLP-20

This is the annexure marked "JLP-20" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
AGREED BETWEEN THE UFU AND MFB ON [INSERT DATE] - PROTOCOLS FOR USE OF GPS SYSTEM INCLUDED IN FIREGROUND ACCOUNTABILITY TECHNOLOGY

1. Equipment/Data/Information for Fireground Accountability

The tracking and mapping GPS functions are only for non-punitive use in 'on scene' incident management and standard debriefs.

The data will be accessed and utilised via suitably trained and authorised officers.

Such authorised officers are:

1. Incident Controllers for 'on scene' operations and for standard debriefs,
2. Commanders and ACFO's for 'on scene' operations,
3. Control Unit personnel where the Control Unit is in operation, and
4. The ECC and logistics Officers at incidents external to the MFD

The firefighter location system and the vehicle tracking system are limited and it is important to recognise such limitations. In particular GPS data cannot be assumed to be correct unless confirmed in real time via standard processes.

2. Negotiation to occur in relation to any other uses

Other use of these new technologies is not authorised and where either party are considering the use of mapping, tracking, GPS, AVL, or equivalent (or the data/information gathered from such equipment) for some purpose other than as described in section 1 above, such other use will only be authorised or implemented by agreement between the parties via enterprise bargaining negotiations, or otherwise by agreement.

3. Information will remain confidential and only to be distributed to MFB or UFU personnel

The MFB commits that information/data collected via GPS, tracking, mapping, AVL or any other such device will remain confidential and will only be used for incident management and debriefs. Data will not be stored or shared for any other purpose.

4. Disputes
Any disputes regarding this document and matters covered herein, shall be dealt with via the dispute resolution processes in the MFB UFU Operational Staff Agreement 2010 and the MFESB & UFU ACFO Agreement 2010.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-21

This is the annexure marked "JLP-21" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
PROTOCOLS

USE OF GPS SYSTEM AS PART OF FIREGROUND ACCOUNTABILITY IPHONE SYSTEM

1. Use of Equipment

The GPS tracking and mapping functions are only for operational use in incident management and standard debriefs.

The data will be accessed and utilised by authorised officers ad directed by the Chief Officer.

2. Future uses of Equipment

Other use of these new technologies has not been agreed by the parties to date.

Where either party is considering using the tracking or mapping functions for any other use than as specified in point 1 above, such other use will only be authorised or implemented by agreement between the parties via consultation or enterprise bargaining negotiations.

3. Privacy

The MFB will collect and store data as required in accordance with the privacy obligations typical of a Victorian State Government Authority.

DRAFT 14/8/2013 – FOR DISCUSSION PURPOSES ONLY
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-22

This is the annexure marked "JLP-22" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Hi Rini,

Just a quick follow up to find out when you will be in a position to respond to the proposal and subsequent discussions with us last week.

I know you had to speak to BCom but I was unsure of when to expect a response. Any clarity you could provide around this matter would be greatly appreciated.

Many thanks,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-23

This is the annexure marked “JLP-23” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Hi Rini,

I just wanted to touch base and see if you are in a position to meet and discuss feedback on the proposed protocols as discussed during our last meeting on Wednesday 14 August 2013.

I am keen to get the UFU’s feedback on our discussions so that we can continue to progress the matter with a view to resolution within the agreed timeframe.

If you could let me know if you have some time on Monday, or alternatively prior to or after our meeting scheduled for Tuesday, I would be most grateful.

Kind regards,

Janette
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-24

This is the annexure marked “JLP-24” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Hi Rini,

Just following up on a meeting time to discuss this matter. Do you have any availability tomorrow or Monday to meet at Eastern Hill to discuss these protocols. I am mindful that these need to be resolved within the next two weeks, and the last time we met to discuss them was on 14 August 2013.

Can you please advise me when would be the earliest possible opportunity to meet I will make the necessary arrangements at my end.

Kind regards,

Janette

Janette Pearce | Principal Industrial Relations Officer
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | M: [redacted] | E: jpearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-25

This is the annexure marked "JLP-25" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Hi Rini,

I am unavailable to meet tomorrow morning as I have another meeting prior to the conciliation.

I have attached a copy of the protocols exchanged with you at our 14 August 2013 meeting as requested. If you could provide your initial comments in the interim for our consideration that would assist greatly.

I propose that we try and schedule some time to meet on Friday at the MFB office.

Kind regards,

Janette

---

Hi Janette,

I am unfortunately tied up in other matters all day Thursday and would not be available to meet at Eastern Hill. I am available to meet at the Commission prior to tomorrow's conference however if that suits?

In the meantime I am still collecting feedback from the UFU representatives on the MFB's response.

However, if you could send me an electronic copy of the MFB's response protocols it would be very helpful as I could facilitate further feedback from our end by sending it around via email in order to provide feedback sooner to the MFB.

Let me know if tomorrow suits.

Thanks,

Rini Krouskos
Industrial Officer
From: PEARCE, Janette [mailto:JPEARCE@mfb.vic.gov.au]
Sent: Tuesday, 17 September 2013 11:34 AM
To: Rini Krouskos
Cc: YOUSSEF, David; HOGAN, Sean
Subject: FAST Card Protocols

Dear Rini,

Further to my email dated 12 November 2013, I was just wanting to follow up on my proposal to meet to discuss the protocols provided by the MFB last meeting.

I am mindful that it is now over one month since we last met and both parties committed at the August 2013 meeting at regular intervals so as to facilitate discussions and resolution of this matter prior to the end of the trial of the system.

I understand that both parties are busy tomorrow in the Fair Work Commission, however if you could please advise of your availability for Thursday 19 September 2013 to meet at Eastern Hill I would be grateful.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | M: [REDACTED] | E: j Pearce@mfb.vic.gov.au

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*****************************************

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The MFB is committed to minimising its impact on the environment. Please consider the environment before printing this e-mail.

***********************************************************************
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However, if you could send me an electronic copy of the MFB’s response protocols it would be very helpful as I could facilitate further feedback from our end by sending it around via email in order to provide feedback sooner to the MFB.

Let me know if tomorrow suits.

Thanks,

Rini Krouskos
Industrial Officer

United Firefighters Union
Victorian Branch
410 Brunswick Street, Fitzroy 3065
Victoria Australia
T (03) 9419 8811 | F (03) 9419 9258 | M
Dear Rini,

Further to my email dated 12 November 2013, I was just wanting to follow up on my proposal to meet to discuss the protocols provided by the MFB last meeting.

I am mindful that it is now over one month since we last met and both parties committed at the August 2013 to meeting at regular intervals so as to facilitate discussions and resolution of this matter prior to the end of the trial of the system.

I understand that both parties are busy tomorrow in the Fair Work Commission, however if you could please advise of your availability for Thursday 19 September 2013 to meet at Eastern Hill I would be grateful.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | M: [blank] | E: jpearce@mfb.vic.gov.au

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-----------------------------------------------------------------------------------------------------------------

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-----------------------------------------------------------------------------------------------------------------

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-----------------------------------------------------------------------------------------------------------------
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-26

This is the annexure marked "JLP-26" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Hi Rini,

Further to my emails below, could you advise when you are available to meet at Eastern Hill for the purposes of discussing the FAST Card protocols.

The parties undertook to develop the protocols prior to the end of September, however this date is fast approaching and we have not received any feedback from the UFU in regard to this matter since 14 August 2013.

If you are unable to meet prior to Wednesday, we request that you provide your response to the MFB’s proposal at your earliest convenience.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | M: [REDACTED] E: jpearce@mfb.vic.gov.au

Rini,

Further to my email below, just following up to see if you had any initial feedback that you could provide, and if you were able to meet tomorrow at the MFB to discuss and progress this matter further.

Kind regards,

Janette

Janette Pearce | Principal Industrial Relations Officer
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | M: [REDACTED] E: jpearce@mfb.vic.gov.au

From: PEARCE, Janette
Sent: Tuesday, 17 September 2013 1:26 PM
To: Rini Krouskos  
Subject: RE: FAST Card Protocols

Hi Rini,

I am unavailable to meet tomorrow morning as I have another meeting prior to the conciliation.

I have attached a copy of the protocols exchanged with you at our 14 August 2013 meeting as requested. If you could provide your initial comments in the interim for our consideration that would assist greatly.

I propose that we try and schedule some time to meet on Friday at the MFB office.

Kind regards,

Janette

From: Rini Krouskos [mailto:io3@ufuvic.asn.au]  
Sent: Tuesday, 17 September 2013 11:42 AM  
To: PEARCE, Janette  
Cc: Rini Krouskos  
Subject: RE: FAST Card Protocols

*** MFB: external message processed. Details at bottom of email ***

Hi Janette,

I am unfortunately tied up in other matters all day Thursday and would not be available to meet at Eastern Hill. I am available to meet at the Commission prior to tomorrows conference however if that suits?

In the meantime I am still collecting feedback from the UFU representatives on the MFB’s response.

However, if you could send me an electronic copy of the MFB’s response protocols it would be very helpful as I could facilitate further feedback from our end by sending it around via email in order to provide feedback sooner to the MFB.

Let me know if tomorrow suits.

Thanks,

Rini Krouskos  
Industrial Officer

United Firefighters Union  
Victorian Branch  
410 Brunswick Street, Fitzroy 3065  
Victoria Australia
From: PEARCE, Janette [mailto:JPEARCE@mfb.vic.gov.au]
Sent: Tuesday, 17 September 2013 11:34 AM
To: Rini Krouskos
Cc: YOUSSEF, David; HOGAN, Sean
Subject: FAST Card Protocols

Dear Rini,

Further to my email dated 12 November 2013, I was just wanting to follow up on my proposal to meet to discuss the protocols provided by the MFB last meeting.

I am mindful that it is now over one month since we last met and both parties committed at the August 2013 to meeting at regular intervals so as to facilitate discussions and resolution of this matter prior to the end of the trial of the system.

I understand that both parties are busy tomorrow in the Fair Work Commission, however if you could please advise your availability for Thursday 19 September 2013 to meet at Eastern Hill I would be grateful.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | M: -----=: jpearce@mfb.vic.gov.au

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--------------------------------------------------------------------------------------
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Please consider the environment before printing this e-mail.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-27

This is the annexure marked "JLP-27" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
File Note:

Subject: Consultative Committee

Date: 13 November 2013

I was present at the Consultation Committee on 13 November 2013 as Industrial Relations representative for the MFB.

During the consultation committee the following comments were made by members of the UFU representatives:

1. When discussing the matter of FASTCard, David Hamilton made remarks to the effect of, when discussing the issue of agreeing on a set of protocols for the use of GPS tracking:

   'we are coming along with you on a journey because we support what you are trying to do with FAST Card, the UFU have previously said that if the protocols are not agreed that we reserve our right to withdraw support, if I wanted to, I could tell you to get nicked, but I won't because we support what you are trying to do'.

2. When discussing the matter of AirWatch and the ability of the MFB to monitor phone calls made from MFB phones, Brendan Angwin made remarks to the effect of:

   'I use my personal reason, to avoid having to carry around two phones... what if I was having an extramarital affair, I wouldn't want the MFB to be monitoring what I am doing'

3. When discussing the FAST Card protocols and confidentiality issues, Rini Krouskos made the comment to the effect that when uniformed employees are before fair work on a personal matter, that others would be able to see that the truck is at Fair Work Australia, as sometimes, if the operational employee cannot be released from duty, the crew will take the truck to Fair Work Australia and wait for the individual while they are at Fair Work Australia.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-28

This is the annexure marked “JLP-28” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
7 March 2014

Mr Peter Marshall  
United Firefighters Union  
Victoria Branch  
410 Brunswick Street  
FITZROY VIC 3065  

Sent via email: p.marshall@ufuvic.asn.au

Dear Mr Marshall  

Re: UFU Failure to Provide Quorum at March 2014 Consultation Committee  

We refer to your letter dated 6 March 2014. We reject the UFU’s characterisation of the MFB’s behaviour.

With respect to the UFU’s conduct prior to the March 2014 Consultation Committee the MFB note as follows:

1. The March 2014 Consultation Committee meeting was scheduled to proceed on Wednesday, 5 March 2014;

2. The UFU unilaterally attempted to frustrate the terms of reference by refusing to provide an appropriate quorum for the March 2014 Consultation Committee on 26 February 2014;

3. The MFB advised the UFU on 27 February 2014 of its expectation that the UFU attend and provide a quorum in accordance with the terms of reference;

4. The UFU again advised the MFB that they would not be attending the March 2014 Consultation Committee on 27 February 2014 and would not provide a quorum in accordance with the terms of reference.

The UFU did not provide a quorum for the March 2014 Consultation Committee. This is unacceptable. We note that this is not the first time the UFU have failed to provide a quorum for a scheduled Consultation Committee, in contravention of the terms of reference. For example:

- for the Consultation Committee Meeting scheduled for 9 January 2013 the UFU failed to provide a quorum;
• the Consultation Committee Meeting scheduled for 6 November 2013 did not take place due to the UFU failing to provide a quorum and had to be rescheduled; and

• the MFB accommodated the UFU’s request to reschedule the January 2014 Consultation Committee Meeting to 14 January 2014 and even then the UFU scheduled other commitments on that day despite prior notice of the Consultation Committee Meeting, and were late.

There have also been a number of other instances of Consultation Committee Meetings and Sub Committee Meetings failing to proceed in accordance with the terms of reference.

The MFB have been extremely accommodating on a number of occasions. However, due to the consistent nature of the UFU’s obstructive behaviour and the organisational significance of the matters on the March agenda, the MFB expect the UFU to attend the rescheduled Consultation Committee on 13 March 2014 as advised on 6 March 2014, on the basis of the agenda circulated on Tuesday, 25 February 2014.

The MFB expect the UFU to provide a quorum in accordance with the agreed terms of reference and request that the UFU confirm their attendance by 10:00 am on Tuesday, 11 March 2014.

It is not a matter for the UFU to determine when and if urgent meetings are to occur, nor is it the UFU’s right to unilaterally determine when consultation is to occur.

Should you have any queries, please contact Seán Hogan, Director, Workplace Relations.

Yours sincerely

Russell Eddington
Acting Chief Executive Officer

Cc: Acting Chief Officer Peter Rau
Deputy Chief Officers
Seán Hogan, Director, Workplace Relations
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

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Matter Number: AG2014/5121

ANNEXURE JLP-29

This is the annexure marked “JLP-29” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Consultative Committee Meeting

Meeting Details:

Meeting Number: 4/2014
Date: 2 April 2014
Time: 11:00 – 15:00
(Meeting opened: 11.30am)
Location: Metropole, Duncan Reilly Suite

Attendees:

Chair – Rini Krouskos
Gail Lawrence - Convener

MFB Representatives
Janette Pearce, Greg Pearson, David Bruce, David Youssef, Craig Lloyd, Greg Pearson, Adam Dalrymple

UFU Representatives
Mick Tisbury, Tony Martin, Danny Ward, Rini Krouskos

In Attendance: David Azzopardi, Gabby Wolski, Miriam Powell, Gavin Rooney

Agenda

<table>
<thead>
<tr>
<th>No.</th>
<th>ITEM</th>
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<tbody>
<tr>
<td>Apologies: Dave Hamilton, Brendan Angwin, Tony Trimble</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Minutes of Previous Meeting</td>
</tr>
<tr>
<td></td>
<td>Minutes of February 2014 accepted by both parties</td>
</tr>
<tr>
<td>2</td>
<td>Minutes of Sub-Committee meetings</td>
</tr>
<tr>
<td></td>
<td>Noted</td>
</tr>
<tr>
<td></td>
<td>Acknowledgment and acceptance of these minutes does not constitute endorsement of matters addressed at Sub-Committees. To complete consultation matters must be referred back to the CC by the proposer and not the Chair of the Sub-Committee.</td>
</tr>
<tr>
<td></td>
<td>Training Sub-Committee minutes from January 2014 to be reviewed at the next Training Sub-Committee meeting. Item 4.2.</td>
</tr>
</tbody>
</table>

Proposals and Papers

P4.1/04/2014

Review Terms of Reference

1. MFB: It is the MFB’s view that the UFU has breached the Consultative Committee Terms of Reference by not providing a quorum at the March 2014 Consultative Committee and the Sub-Committee meetings. The MFB has again reiterated that it is prepared to assist in releasing staff from duty as required to allow the UFU to have appropriate representatives at these meetings. On this basis the MFB cannot see any reason that future meetings should not occur.
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
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<tbody>
<tr>
<td>2.</td>
<td>UFU sees the Terms of reference as settled some time ago. This is another example of the MFB reaching agreement on matters and reneging.</td>
</tr>
<tr>
<td>3.</td>
<td>The UFU believes that the postponement of the March Consultative Committee has been well documented via correspondence between the parties and we see no reason to discuss further.</td>
</tr>
<tr>
<td>4.</td>
<td>The UFU again reiterates that unfortunately due to the high level of fire activity in Victoria our representatives were unable to meet at the scheduled time and we offered to set aside other times to meet to discuss any matters the MFB felt was urgent. No such request was forthcoming to the UFU.</td>
</tr>
<tr>
<td>5.</td>
<td>The MFB's view is that the Consultative Committee arrangements are an important element of the Operational Agreement and the Consultation Committee itself is the forum by which consultation occurs and that the MFB will not undertake consultation in an adhoc basis. It should also be noted that, while there was fire activity relating to the Hazelwood coalmine, that the MFB, due to its commitment to the consultative process, was able to meet its obligation in providing a number of senior officers including two Deputy Chief Officers to meet to ensure that consultation should occur as per the agreement.</td>
</tr>
</tbody>
</table>

**P4.1/03/2014 People Matter Survey 2014**

**PAPER RECEIVED – Yes**

1. The UFU is willing to discuss particular issues in representing employees directly with the MFB in lieu of the MFB providing a good reason or justification for the survey.
2. The MFB is disappointed that the UFU is not prepared to support the People Matter Survey 2014 and the MFB also notes that given that the March Consultative Committee did not occur there is little time for further consultation to occur prior to the survey taking place.
3. The MFB has endeavoured to understand from the UFU what their concern is with the proposal, and given that the UFU has not provided details of concerns, the MFB can only assume that the UFU does not support the proposal.
4. The UFU will discuss further with Branch Committee of Management.

**P4.2/03/2014 Firecom Replacement Project**

**PAPER RECEIVED – Yes**

1. The UFU can endorse the investigation/scoping exercise in to the Firecom Replacement to provide a report to Consultative Committee. The scoping exercise should be in the terms of the paper provided, except not as part of a larger project.
2. The UFU request that the MFB tables the full paper with full proposal.
3. The MFB notes the UFU's position and will provide a response in due course.

**Report Backs**

**P4.1/01/2014 Greener Government Buildings – Miriam Powell**
<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td>UFU: In relation to MFB submission to state government, we assume that the MFB hasn’t said anything different to government to what has been put to the committee. In relation to anticipated savings, it is the UFU view that it is relevant to productivity and that productivity itself is relevant so will list this as a future agenda item. In relation to having a UFU representative on the Steering Committee, we would like to nominate Mark Erwin as the employee representative. In relation to standing agenda item, it is the UFU view that the MFB should either be more clear or have an ongoing procedure.</td>
</tr>
<tr>
<td>2.</td>
<td>From the UFU response, the MFB is unable to ascertain if the UFU supports the proposal. The MFB will consider its position.</td>
</tr>
<tr>
<td>3.</td>
<td>UFU: The UFU is supportive of the proposal in principle. We simply want to address concerns.</td>
</tr>
<tr>
<td><strong>P5.1/11/2011</strong> Human Rights and Workplace Respect Training – Gabby Wolski and David Azzopardi</td>
<td>1. UFU: The UFU position remains the same that it should continue to be dealt with through the Training Sub-committee.</td>
</tr>
<tr>
<td></td>
<td>2. UFU: The UFU understands the proposal was close to being resolved at Training Sub-committee, before MFB broke its commitment and has caused confusion and problems with this issue refers to point 1.</td>
</tr>
<tr>
<td></td>
<td>3. MFB: The MFB believes is has consulted on this issue and will be writing to the UFU in due course.</td>
</tr>
<tr>
<td><strong>P4.1/12/2013</strong> Retirement, Resignation and Retention Survey - Gabby Wolski and David Azzopardi</td>
<td>1. The UFU does not necessarily see a clear need for this survey, however on the basis that it is voluntary, and the UFU receives a copy of the results, the UFU does not oppose its implementation.</td>
</tr>
<tr>
<td></td>
<td>2. The MFB notes the UFU’s response and will consider its position.</td>
</tr>
<tr>
<td><strong>P4.12/09/2012</strong> RADAP Recommendations – Greg Pearson</td>
<td>1. The Consultative Committee endorses:</td>
</tr>
<tr>
<td></td>
<td>• The Project Infrastructure Management and consultation process map</td>
</tr>
<tr>
<td></td>
<td>• The Relocation of the Marine Facility from North Wharf to South Wharf as an interim arrangement pending further consultation at RADAP.</td>
</tr>
<tr>
<td><strong>P3.7/05/2012</strong> Infrastructure Project Status Report – Greg Pearson</td>
<td>1. The committee notes the report.</td>
</tr>
<tr>
<td></td>
<td>2. The MFB notes the UFU’s position.</td>
</tr>
<tr>
<td></td>
<td>3. If the MFB wish to progress this matter the UFU would like clear and detailed explanations for the changes proposed by the MFB.</td>
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## Agenda

<table>
<thead>
<tr>
<th>Agenda No.</th>
<th>ITEM</th>
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<tbody>
<tr>
<td>P3.2/06/2012</td>
<td>Generic Specifications for Pods and Modules – Po Chung</td>
</tr>
<tr>
<td>P4.1/07/2013</td>
<td>ARM360 Spatial Data Collection Project – Gavin Rooney</td>
</tr>
</tbody>
</table>

### General Business

**VEMTC**

1. UFU: The UFU notes that in line with RADAP recommendations, a drill site inspection will occur on Friday 4 April 2014. It is the UFU’s view that there is further detail that still needs to be consulted on e.g. new props, new work, applicable allowances and any outstanding matters that may arise and we reserve our right to raise them as necessary. The UFU also seeks clarification from the MFB as to whether they will abide by their commitment to pay instructors the previously agreed allowance for work outside the MFD.

2. The MFB has provided its position to the UFU in correspondence from the Acting CEO.

### Next Meeting Details:

<table>
<thead>
<tr>
<th>Meeting Number:</th>
<th>Date:</th>
<th>Time: 1100-1500</th>
<th>Chair: MFB</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/2014</td>
<td>7 May 2014</td>
<td></td>
<td>MFB</td>
</tr>
</tbody>
</table>

Meeting closed at 1:51pm
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-30

This is the annexure marked “JLP-30” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
APPLICATION FOR FWA TO DEAL WITH A DISPUTE IN ACCORDANCE WITH A DISPUTE SETTLEMENT PROCEDURE

Fair Work Act 2009—s.739 etc.

Applicant

Name: United Firefighters Union of Australia – Victoria Branch
Title [if applicable] Mr [ ] Mrs [ ] Ms [ ] Other [ ] specify:
Address: 410 Brunswick Street
Suburb: Fitzroy State: VIC Postcode: 3065
If the Applicant is a company or organisation:
Contact person: Rini Krouskos ABN: 74030569256
Contact details for the Applicant or contact person (if one is specified):
Telephone: 03 9419 8811 Mobile: 
Fax: 03 9419 9258 Email: io3@ufuvic.asn.au

Applicant’s representative (if any)

Name: 
Address: 
Suburb: State: Postcode:
Contact person: 
Telephone: Mobile: 
Fax: Email: ABN: [If applicable]

Respondent(s) (Party/Parties with whom the Applicant is in dispute)

Name: Metropolitan Fire and Emergency Services Board
ABN: 28 598 558 561
Address: 456 Albert Street
Suburb: East Melbourne State: VIC Postcode: 3002
Contact person: [If known] Sean Hogan
Telephone: 03 9662 2311 Mobile: 
Fax: 03 9665 4244 Email: SHOGAN@mfb.vic.gov.au

1. What is the industry of the employer?
   Firefighting

2. Relevant instrument:
The dispute is referred to FWA pursuant to a dispute settlement procedure in:
• **Name of instrument:**
  Metropolitan Fire and Emergency Services Board & United Firefighters Union Operational Staff Agreement 2010
  Agreement ID: AG2010/14662

• **Type of instrument:**
  [Tick the appropriate box.]
  - [ ] modern award;
  - [x] enterprise agreement (made under the *Fair Work Act 2009* after 1 July 2009);
  - [ ] workplace agreement (made under the *Workplace Relations Act 1996* after 26 March 2006);
  - [ ] certified agreement (made under the *Workplace Relations Act 1996* on or before 26 March 2006);
  - [ ] AWA, ITEA or an individual preserved state agreement;
  - [ ] contract of employment or other written agreement with a procedure for dealing with disputes in relation to the NES or a safety net contractual entitlement;
  - [ ] other (please specify):

  Please attach a copy of the dispute settlement procedure.

3. **Clauses to which the dispute relates:**
   Clauses 19, 82.5, 82.6, 42.7

4. **What is the dispute about?**
   1. On the 27th August 2012 the UFU notified the MFB of a grievance relating to non-payment of for over seven moves within the 3 year roster cycle for UFU member Peter Davis. Payment of penalties in this situation is provided for in clause 82.5 of the Agreement.
   2. The MFB responded by stating that where a move attracts payment of penalties for being transferred to a non-annexed station under clause 82.6 of the Agreement this does not count as move for the purposes of clause 82.5
   3. This dispute has progressed through the 4 steps outlined in the Dispute Resolution clause in the Agreement (clause 19) and remains unresolved.

5. **Does this application relate to a refusal by an employer of a request by an employee for flexible working arrangements?**
   - [ ] Yes
   - [x] No
6. Does this application relate to a refusal by an employer of a request by an employee for extension of unpaid parental leave?

[ ] Yes
[X] No

7. Relief sought:
The assistance of Fair Work Australia in resolving the dispute.

8. Steps already taken under dispute settlement procedure:
27/08/2012- UFU notifies grievance
29/08/2012- Relevant supervisor informs UFU he is on leave
29/08/2012- UFU notifies grievance to new relevant Commander
03/09/2012- Commander responds stating the matter should be referred to the Rostering Committee
12/09/2012- Rostering Committee meets and discusses the issue
14/09/2012- MFB advises UFU that no agreement could be reached on the issue at the Rostering Committees
26/09/2012- UFU escalates grievance to step 2
24/10/2012- MFB responds to grievance
26/10/2012- UFU escalates grievance to step 3
5/11/2012- As no response was provided at step 3 UFU requests a step 3 meeting to discuss the grievance
12/11/2012- UFU escalates to step 4
19/11/2012- UFU meets with MFB Employment Relations Director to discuss the grievance
30/11/2012- MFB by provides a response at step rejecting UFU grievance

Date: 11th December 2012
Signature:

Name: Peter Marshall
Capacity/Position: Secretary,
United Firefighters Union
(Victorian Branch)

Service requirements

This application (including any supporting documentation lodged with the application) must be served on the named Respondent(s) to the dispute as soon as practicable after the document is lodged with FWA.
Serving a document means giving a copy of the document to the person being served in a manner provided for in the *Fair Work Australia Rules 2010*. Rule 9 sets out the ways in which a document can be served. For example, to serve a company it is sufficient if a copy of the documents is sent by Express Post (retaining the sender’s copy of the identifying barcode), registered post or delivered by hand, to the company’s registered office or its principal place of business.

*This form should also be used for an application for FWA to deal with a dispute in accordance with a dispute resolution procedure in an agreement made under the *Workplace Relations Act 1996* and other transitional instruments (see Schedule 19 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*).
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-31

This is the annexure marked "JLP-31" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
STATEMENT

Fair Work Act 2009
s.739 - Application to deal with a dispute

United Firefighters' Union of Australia
v
Metropolitan Fire and Emergency Services Board
(C2012/6541)

COMMISSIONER ROE

MELBOURNE, 10 JANUARY 2013

 Alleged dispute concerning payment of penalties.

The following process will be followed arising from the conciliation conference of 10 January 2013. The parties agreed and FWA is satisfied that the required steps of Clause 19 disputes resolution procedure have been followed to enable the matter to be conciliated and if necessary arbitrated by FWA.

1. The UFU will provide the MFB with examples of where Clause 82.5 applies to moves outside of zone by the end of the week.

2. The MFB will further consider their position and respond by 24 January 2013.

3. If this resolves the dispute FWA is to be notified by 30 January and the file will be closed.

4. If this does not resolve the dispute then the parties and FWA agree that the matter will have to be determined by arbitration as conciliation is exhausted. The parties are to advise by 30 January 2013 whether the matter can be determined by written submission or whether witness evidence is required and what is their suggested timetable for arbitration. FWA will then issue directions.

COMMISSIONER

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IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

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Matter Number: AG2014/5121

ANNEXURE JLP-32

This is the annexure marked "JLP-32" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms Pearce

My recollection of the outcome is a little bit different with yours. Nevertheless I considered that I provided you with a genuine and reasonable response which provided you with a simple way to confirm circumstances where ‘moves’ are counted ‘across’ districts. After all the MFB holds countless records re these issues and your rostering staff are very knowledgeable regarding the rostering practices.

Despite this, I have taken some time to identify for you some individuals who have had moves counted when undertaking moves to different districts and within different districts to their home district. These persons include:

David Hamilton – moving from central to northern and numerous moves around northern during 2012. All counted as moves.
Chris Hare – After being promoted in July 2011 Chris has been moved to stations 14, 13 and 6. All to different districts and all counted as moves.
Paul Turner – After being promoted in December 2012 Paul has been moved to station 48 which was counted as a move.
Glen Sutton – After being promoted in December 2012 Glen has been moved to station 31 which was to a different district and counted as a move.

These are only a very small example of many such circumstances.

Regards

Casey Lee

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: c.lee@ufuvic.asn.au

**100 years of the United Firefighters Union**
Dear Mr Lee,

The MFB find the UFU’s response disappointing and do not find it in keeping with the Commissioner’s Recommendation.

You will recall at the Conciliation the UFU spoke generally that they were aware of instances where clause 82.5 and 82.6 were not applied as mutually exclusive clauses. The UFU were invited to provide detailed examples of the cases that they were referring to and it was on this basis that the MFB agreed to consider these examples and reconsider its position in regard to the application of these two clauses.

The UFU agreed to provide these examples by the 11th of January 2013, with a report back to be provided to the Fair Work Commission by 30 January 2013 as to whether the matter was settled or if the parties required it to be listed for arbitration.

Despite the MFB’s requests, the UFU have not complied with the Commissioners Recommendation by providing the detailed examples they referred to during conciliation, and therefore the MFB have been unable to reconsider their position in regard to this matter.

We therefore advise that the MFB maintains its view that clauses 82.5 and 82.6 are mutually exclusive clauses, and that when an employee is transferred to another zone under 82.6, it does not constitute a move for the purposes of the 7 moves provision.

The MFB will now refer this matter back to the Fair Work Commission.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
The information to be provided by the UFU was examples of circumstances where the clauses in 82.5 and 82.6 are not strictly confined to dealing with 'within zone' or 'across zone' situations.

The most obvious example is with respect to counted moves where employees move to annexed stations (other zones). If you simply check with Rosters they will confirm this for you. There should be no need for specific examples, Rosters will have a clear understanding of the situation.

Regards

Casey Lee

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: c.lee@ufu.vic.asn.au

From: PEARCE, Janette [mailto:JPEARCE@mfb.vic.gov.au]
Sent: Monday, 11 February 2013 1:55 PM
To: Casey Lee
Cc: HOGAN, Sean; Rini Krouskos
Subject: C2012/6541 (Transfer to Another Zone)

Dear Mr Lee,

We refer to Commissioner Roe’s recommendation dated 10 January 2013 and our email dated 29 January 2013 in regard to this matter.

At the Conciliation on 10 January 2013, the UFU advised the MFB and the Commissioner that they had specific examples that demonstrated a custom and practice existed that would suggest that 82.5 and 82.6 have not been applied as mutually exclusive clauses for the purposes of calculating the 7 moves provision. The MFB agreed to review the particular examples on the basis that the particulars provided were detailed examples (dates, names etc) to enable the MFB review these occurrences and review its position.

These particulars were to be received by the MFB at the end of that week (11 January 2013), however the MFB advises that to date we have not received the detailed examples as promised by the UFU. The MFB wrote to the UFU on 29 January 2013, advising that we have not received a response from the UFU, and seeking an indication that the UFU that they still intend to provide the MFB with these examples for our consideration.

To date the MFB have not received a response to this email correspondence and would again request that the UFU provide the MFB with an update as to the status of this matter.

Yours sincerely,

Janette Pearce

Janette Pearce | Principal Industrial Relations Officer | People & Culture
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IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-33

This is the annexure marked "JLP-33" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Mr Lee,

In response to the examples provided by you on 14 February 2013, we advise that we have spoken to Rosters in regard to the examples you provided and on our review of these examples, we do not believe that they provide evidence that contradicts the MFB’s view that clauses 82.5 and 82.6 are mutually exclusive.

The MFB advises that upon consideration of the examples provided by the UFU, the MFB maintains its view that clauses 82.5 and 82.6 of the Operational Staff Enterprise Agreement are mutually exclusive, and have been and will continue to be applied as such.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: ipearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-34

This is the annexure marked “JLP-34” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Ms Pearce

I formally request that you provide an explanation of how the specific issues I have raised are consistent with the MFB position.

In my view whilst I have raised specific examples with you and explained our position, you have simply rejected my correspondence without any explanation why. I am simply seeking some explanation, transparency and accountability. I don't think it is too much to ask for.

To avoid doubt, I request from you as a Victorian Public Sector employee your full and proper reasoning in reaching your decision.

Regards

Casey Lee

On 13/03/2013, at 3:16 PM, "PEARCE, Janette" <JPEARCE@mfb.vic.gov.au> wrote:

Dear Mr Lee,

The past and current practice in regard to the application of 82.5 and 82.6 are consistent with the MFB’s view that the clauses are mutually exclusive.

We therefore advise that the MFB maintains its view in regard to this matter that these two clauses are mutually exclusive.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture
Dear Ms Pearce

Following our discussion last week, I have been waiting for you to seek further clarification as you committed to.

I followed up with Rosters and confirmed that I think I can provide some clarity in this matter:

1. The examples which I provided include moves to annexed stations (not moves within zones) where moves are counted and have always been counted. i.e. examples that contradict your view that 82.5 and 82.6 are mutually exclusive.

I look forward to your response.

Casey Lee

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Dear Mr Lee,

In response to the examples provided by you on 14 February 2013, we advise that we have spoken to Rosters in regard to the examples you provided and on our review of these examples, we do not believe that they provide evidence that contradicts the MFB’s view that clauses 82.5 and 82.6 are mutually exclusive.

The MFB advises that upon consideration of the examples provided by the UFU, the MFB maintains its view that clauses 82.5 and 82.6 of the Operational Staff Enterprise Agreement are mutually exclusive, and have been and will continue to be applied as such.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au

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IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-35

This is the annexure marked "JLP-35" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Mr. Lee,

I would like to reiterate the MFB position on this matter that has previously been conveyed by Ms. Pearce.

The MFB presented its position at FWC Conciliation on 11 January 2013, that the clauses 82.5 and 82.6 are mutually exclusive and that transfers to another zone under 82.6 do not incur a move for the purposes of the seven moves provision because the seven moves provision is contained in 82.5. At the conciliation, the UFU commented that it knew of examples where the clause has not been applied in this way and that contradict our view on this matter. As part of the Commissioner’s statement on this matter, the UFU were to provide the MFB with these examples for our consideration by 11 January 2013.

When the MFB followed up the UFU on 11 February 2013 to query if it still intended to provide the examples as per conciliation, the MFB was advised that they should contact the Roster department. We note that the actions resulting from conciliation was not for the MFB to investigate the UFU’s claims. We have, however, verified with Rosters that when an employee receives a penalty in accordance with clause 82.6 that it is not counted as a move under clause 82.5.

To date, the MFB has not received any material examples it believes substantiates the UFU’s claims. As such, we will continue to interpret and apply clauses 82.5 and 82.6 as mutually exclusive clauses.

If the UFU is not satisfied with this response we suggest the alleged dispute be relisted for further conciliation.

Kind Regards,

Sean

Seán Hogan | People & Culture | Director - Employee Relations

Metropolitan Fire & Emergency Services Board

T: (03) 9665 4404 | M: || M: | E: shogan@mfb.vic.gov.au

---

From: Casey Lee [c.lee@ufu.vic.au]
Sent: Wednesday, 13 March 2013 7:21 PM
To: PEARCE, Janette
Cc: HOGAN, Sean; RHODES, Shane; Rini Krouskos
Subject: Re: C2012/6541

I formally request that you provide an explanation of how the specific issues I have raised are consistent with the MFB position.

In my view whilst I have raised specific examples with you and explained our position, you have simply rejected my correspondence without any explanation why. I am simply seeking some explanation, transparency and accountability. I don’t think it is too much to ask for.
To avoid doubt, I request from you as a Victorian Public Sector employee your full and proper reasoning in reaching your decision.

Regards

Casey Lee

On 13/03/2013, at 3:16 PM, "PEARCE, Janette" <JPEARCE@mfb.vic.gov.au> wrote:

Dear Mr Lee,

The past and current practice in regard to the application of 82.5 and 82.6 are consistent with the MFB’s view that the clauses are mutually exclusive.

We therefore advise that the MFB maintains its view in regard to this matter that these two clauses are mutually exclusive.

Yours sincerely,

Janette.

---

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002

T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au

---

From: Casey Lee [mailto:c.lee@ufuvic.asn.au]
Sent: Thursday, 7 March 2013 9:58 PM
To: PEARCE, Janette
Cc: HOGAN, Sean; Rini Krouskos; Lee, Casey (UFU)
Subject: RE: C2012/6541

*** MFB: external message processed. Details at bottom of email ***
Dear Ms Pearce

Following our discussion last week, I have been waiting for you to seek further clarification as you committed to.

I followed up with Rosters and confirmed that I think I can provide some clarity in this matter:

1. The examples which I provided include moves to annexed stations (not moves within zones) where moves are counted and have always been counted. i.e. examples that contradict your view that 82.5 and 82.6 are mutually exclusive.

I look forward to your response.

Casey Lee

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: c.lee@ufuvic.asn.au

---

From: PEARCE, Janette [mailto:JPEARCE@mfb.vic.gov.au]
Sent: Wednesday, 27 February 2013 4:17 PM
To: Casey Lee
Cc: HOGAN, Sean; Rini Krouskos
Subject: C2012/6541

Dear Mr Lee,
In response to the examples provided by you on 14 February 2013, we advise that we have spoken to Rosters in regard to the examples you provided and on our review of these examples, we do not believe that they provide evidence that contradicts the MFB’s view that clauses 82.5 and 82.6 are mutually exclusive.

The MFB advises that upon consideration of the examples provided by the UFU, the MFB maintains its view that clauses 82.5 and 82.6 of the Operational Staff Enterprise Agreement are mutually exclusive, and have been and will continue to be applied as such.

Yours sincerely,

Janette

Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

<image006.jpg>

466 Albert Street, East Melbourne, VIC 3002

T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-36

This is the annexure marked "JLP-36" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Mr Hogan,

On 14 February the UFU provided examples involving 4 specific and discrete individuals circumstances where the clauses are not treated in a mutually exclusive way.

I'm not sure if you have received these or not, I know Janette was dealing with the matter at the time but I think you were copied in, can you please confirm that your response is provided in the context of having considered these specific examples.

I thought these examples were what was sought, if they are in your view insufficient, can you please explain why.

Casey Lee

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: c.lee@ufuvic.asn.au

100 years of the United Firefighters Union
when an employee receives a penalty in accordance with clause 82.6 that it is not counted as a move under clause 82.5.

To date, the MFB has not received any material examples it believes substantiates the UFU’s claims. As such, we will continue to interpret and apply clauses 82.5 and 82.6 as mutually exclusive clauses.

If the UFU is not satisfied with this response we suggest the alleged dispute be relisted for further conciliation.

Kind Regards,

Seán

Seán Hogan | People & Culture | Director - Employee Relations

Metropolitan Fire & Emergency Services Board

T: (03) 9665 4404 | M:         | E: shogan@mfb.vic.gov.au

From: Casey Lee [c.lee@ufuvic.asn.au]
Sent: Wednesday, 13 March 2013 7:21 PM
To: PEARCE, Janette
Cc: HOGAN, Sean; RHODES, Shane; Rini Krouskos
Subject: Re: C2012/6541

*** MFB: external message processed. Details at bottom of email ***

Dear Ms Pearce

I formally request that you provide an explanation of how the specific issues I have raised are consistent with the MFB position.

In my view whilst I have raised specific examples with you and explained our position, you have simply rejected my correspondence without any explanation why. I am simply seeking some explanation, transparency and accountability. I don't think it is too much to ask for.

To avoid doubt, I request from you as a Victorian Public Sector employee your full and proper reasoning in reaching your decision.

Regards

Casey Lee

On 13/03/2013, at 3:16 PM, "PEARCE, Janette" <JPEARCE@mfb.vic.gov.au> wrote:

Dear Mr Lee,

The past and current practice in regard to the application of 82.5 and 82.6 are consistent with the MFB’s view that the clauses are mutually exclusive.
We therefore advise that the MFB maintains its view in regard to this matter that these two clauses are mutually exclusive.

Yours sincerely,

Janette.

Janette Pearce | Principal Industrial Relations Officer | People & Culture
Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002
T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au

From: Casey Lee [mailto:c.lee@ufuvic.asn.au]
Sent: Thursday, 7 March 2013 9:58 PM
To: PEARCE, Janette
Cc: HOGAN, Sean; Rini Krouskos; Lee, Casey (UFU)
Subject: RE: C2012/6541

*** MFB: external message processed. Details at bottom of email ***

Dear Ms Pearce

Following our discussion last week, I have been waiting for you to seek further clarification as you committed to.

I followed up with Rosters and confirmed that I think I can provide some clarity in this matter:

1. The examples which I provided include moves to annexed stations (not moves within zones) where moves are counted and have always been counted. i.e. examples that contradict your view that 82.5 and 82.6 are mutually exclusive.
I look forward to your response.

Casey Lee

United Firefighters Union
410 Brunswick Street
Fitzroy 3065
Ph: (03) 9419 8811
Fax: (03) 9419 9258
Email: c.lee@ufuvic.asn.au

From: PEARCE, Janette [mailto:JPEARCE@mfb.vic.gov.au]
Sent: Wednesday, 27 February 2013 4:17 PM
To: Casey Lee
Cc: HOGAN, Sean; Rini Krouskos
Subject: C2012/6541

Dear Mr Lee,

In response to the examples provided by you on 14 February 2013, we advise that we have spoken to Rosters in regard to the examples you provided and on our review of these examples, we do not believe that they provide evidence that contradicts the MFB’s view that clauses 82.5 and 82.6 are mutually exclusive.

The MFB advises that upon consideration of the examples provided by the UFU, the MFB maintains its view that clauses 82.5 and 82.6 of the Operational Staff Enterprise Agreement are mutually exclusive, and have been and will continue to be applied as such.

Yours sincerely,

Janette
Janette Pearce | Principal Industrial Relations Officer | People & Culture

Metropolitan Fire & Emergency Services Board

456 Albert Street, East Melbourne, VIC 3002

T: (03) 9420 3722 | E: jpearce@mfb.vic.gov.au

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IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-37

This is the annexure marked “JLP-37” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear Mr Lee,

Please find attached correspondence from the MFB in relation to the alleged dispute relating to the interpretation and application of sub-clauses 82.5 and 82.6.

Kind Regards,
Seán

Seán Hogan | People & Culture | Director - Employee Relations
Metropolitan Fire & Emergency Services Board
456 Albert Street, East Melbourne, VIC, 3002.
(03) 9665 4404 | M: ******** E: shogan@mfb.vic.gov.au
21 May 2013

Mr Casey Lee  
United Firefighters Union of Australia  
410 Brunswick Street  
Fitzroy VIC 3065

Sent via e-mail

Dear Mr Lee,

Re: C2012/6541– Alleged dispute regarding the application of clauses 82.5 and 82.6

The MFB maintains its view that clauses 82.5 and 82.6 are to be read and applied separately. Therefore, transfers to another zone under 82.6 do not incur a move for the purposes of the seven moves provision because the seven moves provision is contained in 82.5.

At conciliation, the UFU commented that it knew of examples where the clause has not been applied in this way and that contradict our view on this matter. The MFB considers that such examples which may occur on an ad hoc basis do not necessarily establish an applicable or enforceable term of employment.

However, for completeness the MFB has considered and provided responses below to the four examples provided by the UFU.

Example 1 (Dave Hamilton): Moving from central to northern and numerous moves around northern during 2012. All counted as moves.

MFB Response: On this occasion the employee’s moves within the northern district were to stations that were all closer to his home; therefore Non-Annexed Station penalties did not apply, and as such were counted as moves.

Example 2 (Chris Hare): After being promoted in July 2011 the employee moved to stations 14, 13 and 6. All to different districts and all counted as moves.

MFB Response: The MFB’s records show that Mr Hare was promoted in July 2012. Mr Hare’s move to FS 14 was a mutual change, therefore no penalties or moves applied. Mr Hare’s move to FS 13 and 6 were all closer to his
residential home, and therefore Non-Annexed Station penalties did not apply, and as such were counted as moves.

Example 3 (Paul Turner): After being promoted in December 2012 Mr Turner moved to station 48 which were counted as a move.
   MFB Response: Mr Turner was promoted to a Station Officer in December 2012. Mr Turner did not receive a move when he moved from the training college to his first station (FS 44). From FS 44 he was moved to FS 48, which are both in the Western District and therefore non-annexed station penalty did not apply, and he received a countable move.

Example 4 (Glen Sutton): After being promoted in December 2012 Mr Sutton moved to station 31 which was to a different district and counted as a move.
   MFB Response: Following his promotion, Mr Sutton was located at FS 38. Mr Sutton was then moved from FS 38 to FS 31, which was closer to his residential home and therefore non-annexed penalties were not applicable and as such he received a countable move.

The above examples do not substantiate the UFU's claims that a practice exists and, as such, the MFB will continue to interpret and apply clauses 82.5 and 82.6 as exclusive clauses.

Yours sincerely,

Seán Hogan
Director Employee Relations
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-38

This is the annexure marked "JLP-38" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
RECOMMENDATION

Fair Work Act 2009
s.739—Dispute resolution

United Firefighters’ Union of Australia
v
Metropolitan Fire and Emergency Services Board
(C2011/5945)

Fire fighting services

COMMISSIONER ROE
MELBOURNE, 1 DECEMBER 2011

Alleged dispute concerning the application of penalty rates.

[1] On 1 December 2011 a conference was held at Fair Work Australia in respect to the alleged dispute concerning the application of penalty rates pursuant to Clause 82.6 of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010 (the Agreement) [AE8810055]. I made the following recommendation which was accepted by the parties in settlement of the dispute.

1. Pursuant to the principles in Clause 82 that rostering should not adversely impact residential and travel arrangements of employees and that rostering should be cost efficient for the Metropolitan Fire and Emergency Services Board (the MFB), the MFB will endeavour to avoid transfers into another zone (without being rostered at an annexed station) extending for more than one roster cycle.

2. Transfer into another zone (without being rostered at an annexed station) may occur for more than one roster cycle due to unavoidable operational requirements or unintentionally. Where transfer into another zone (without being rostered at an annexed station) occurs for more than one roster cycle the employee shall be entitled to attract a penalty as per clauses 42.7.1.1, 42.7.1.2, and 42.7.1.3 of the Agreement.

3. There shall be no payment of any claim pursuant to this recommendation where the claim relates to a period prior to 16 September 2011 which was when the current grievance was lodged except for grievances already known to the United Firefighters’ Union of Australia (the UFU) for the period from 16 June 2011.
4. The acceptance of this recommendation shall not lead to any claim concerning moves extending beyond more than one roster cycle in respect to other scenarios which might attract penalties under Clause 42.7.1 of the Agreement.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-39

This is the annexure marked "JLP-39" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Dear All

I hereby submit a dispute and grievance over shower change facilities at 51 stn not providing privacy standards that are suitable for male and female fire fighters. Worksafe says that separate facilities for changing and showering for both male and females must be provided.

The equal opportunity act states that members of the opposite sex are not to be exposed in a "state of undress". The facilities at 51 have been identified by acting ACFO McQuade as not being suitable at a meeting at the stn on Thursday between Commander and myself and him.

He identified that privacy issues would be breached because of the state of the station and that they would have to be fixed before it was suitable for both male and female fire fighters, and agreed that no female fire fighters would be stationed at 51 until there was alterations done. He has now reneged on that agreement and plans to roster a female fire fighter at the stn.

This is despite warnings that privacy would be breached under current conditions.

I also threatened that I would be moved because I raised the issue of my privacy being breached.

The Brigade has failed to provide suitable facilities for both male and female fire fighters despite having 20 years to do so since the first female fire fighters joined the Brigade. He identified the failings of the facilities yet he plans to expose members to embarrassment.
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-40

This is the annexure marked "JLP-40" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Janette,

I've just called the firefighter and had a good chat. She has no issues with the facilities but has mixed feelings about being stationed there. She said that the same thing happened about 5 years ago when another female was to be rostered there and objected. The female was then rostered elsewhere. She doesn't really want to be the 'elephant in the room' (my words not hers) but doesn't want to keep getting his way of a female free station. I asked her directly what she wants and she said she didn't want to make the decision. Therefore, I put to her that if she is happy with the facilities that we should continue with her being there and we will deal with any issues arising from that. She was ok with that.

Darren

And we are sure that the firefighter in question has no concerns about the facilities or the rostering to that station?

Janette,

Yes, FS51. I will quietly follow up with payroll to identify previous rostering at FS51.

Regards
Darren

Hi Darren,

Just looking into the design and facility standards, and just want to confirm that the station in question is FS 51.

Also (as a side note and not for discussion), I believe from speaking to some colleagues that there have been female employees stationed at 51 in the past, the question is therefore whether they were stationed there while was there or not, but insofar as facilities, these have not been raised as a concern when females were stationed there in the past.

Thanks.
Hi Janette,

Could you please call me when convenient?

Regards
Darren

Darren McQuade | Acting Assistant Chief Fire Officer
Acting Director Operations
North West Metro Region

Metropolitan Fire and Emergency Services Board
Rear 30 McIntyre Rd | Sunshine | VIC 3020
Ph: 03 9665 9767 | Fax: 03 9312 1017 | Mobile: [redacted]
Email: dmcquade@mfb.vic.gov.au |
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-41

This is the annexure marked "JLP-41" referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
Hi Janette,

Thank you for your email. For accuracy, there is also the en-suite attached to the SO's bedroom. Also, that would describe the space in the cubicles as unsatisfactory rather than not ideal.

Regards
Darren

---

From: PEARCE, Janette
Sent: Friday, 15 November 2013 11:36 AM
To: McQUADE, Darren
Cc: HOGAN, Sean
Subject: Advice

Dear Darren,

From the information you have provided, we understand that the facilities are available for fire fighter use at Fire Station 51 (Keilor) are as follows:

- 2 x separate shower and change rooms, which have their own lockable door; and
- 1 x large shower room which have 3 x shower and change cubicles with a lock on each cubicle door.

We understand that the two separate shower change rooms are considered by to be adequate for shower and change purposes. We further note that whilst is of the view that the three shower and change cubicles are not ideal for the purposes of changing, they do provide a private place for people to shower and change if they wish, or in the event that the other two changing and shower rooms are occupied.

We have been advised that the facilities at each station are compliant with an agreed standard, and whilst Fire Station 51 is not one of the stations that has been built to the new guidelines, the facilities are nevertheless sufficient for their intended purposes.

It appears that there are sufficient facilities to ensure fire fighter privacy. The Station Officer at FS51 is able to manage the use of the facilities to ensure everyone has access while respecting the privacy needs of their colleagues.

If you have any further concerns, please don't hesitate to contact me.

Yours sincerely,
IN THE FAIR WORK COMMISSION

Title of Matter: Application by Metropolitan Fire & Emergency Services Board

Section: s.225 - Application for termination of an enterprise agreement after its nominal expiry date

Subject: Application for termination of the Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Assistant Chief Fire Officers Agreement 2010 & Metropolitan Fire and Emergency Services Board, United Firefighters Union of Australia, Operational Staff Agreement 2010

Matter Number: AG2014/5121

ANNEXURE JLP-42

This is the annexure marked “JLP-42” referred to in the witness statement of Janette Lori Pearce dated 20 May 2014.
from: McQUADE, Darren  
Sent: Monday, 18 November 2013 9:55 AM  
To: PEARCE, Janette  
Subject: FW: Dispute

Hi Janette,

Below is the dispute and grievance lodged by , in relation to shower change facilities at FS51. In his email below, has misrepresented my views and exaggerated comments that I made. I have clarified my views and comments made (italics).

As I have already been involved in trying to resolve concerns (before he lodged his grievance) could you please advise if you will now initiate consultation with the UFU?

Meeting held at FS51 on 13th Nov

I expressed the view that whilst the facilities could be better, and they will be as part of the next stage of renovations, the current facilities were reasonable and that they are in fact better than some other stations.

At no time did I say that privacy issues would be breached because of the state of the station. In fact, I reinforced the brigades’ view that people should only change in a lockable private area. The only area that could present challenges would be the shower room that has 3 lockable cubicles. The cubicles do not have a large change area within them. I stressed that I could change comfortably within one but larger people would have more trouble. In that case, there are 2 other large shower/change rooms that people could use. At every stage, I pointed out that this can’t be a gender issue it must be a privacy issue. And for that reason, the room with the 3 shower cubicles could possibly have a lock put on the door leading to the corridor. This would effectively limit the use of that area to one person.

& both told me that the female that was to be rostered there would be happy not being rostered there. I said that if that was the case we could consider leaving her at her current station. However, I pointed out that we cannot prevent someone from being rostered there on the basis of gender and that this was not a long term solution. Although this was a consideration, I have determined that this approach would be wrong and have advised both and that the female firefighter will be rostered there.

As was saying that he is concerned about his privacy at the station, I offered him the opportunity to be moved if he wished. There was no threat, it was an offer and ultimately his choice.

Regards
Darren

Dann McQuade | Acting Assistant Chief Fire Officer  
Acting Director Operations  
North West Metro Region  
Metropolitan Fire and Emergency Services Board  
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