

## **ACT Fire & Rescue Enterprise Agreement 2013 – 2017 Government Wage Offer to Firefighters**

It is timely that the Government's wage offer is explained in full.

The current ACT Fire and Rescue (ACTF&R) Enterprise Agreement (EA) has a nominal expiry date of 30 June 2017, but under the Fair Work Act 2009 it continues until it is replaced (or terminated by the Fair Work Commission).

The Government conducts its bargaining process at two levels. The 'Common Core' process involves all unions and negotiates the common conditions to be included in all agreements. This involves matters such as overtime, leave, superannuation and of course pay. Individual agreements apply and adapt the common core as appropriate. In addition, the Government may endorse a higher pay outcome for a particular agreement where there are productivity outcomes which warrant it.

Applying this to the negotiation of the replacement agreement for Firefighters, the following outcomes have been offered:

- the Government's common core outcome of 11.4% over 4 years; and
- a Firefighters' specific increase of a further 10% payable when the agreement is approved by the Fair Work Commission.

Combined, this represents an increase of 22.5% over four years.

### **The Common Core Offer**

The Government's pay offer covers a period of four years duration with the Agreement scheduled to expire on 31 October 2021. The full offer is:

- 2.25% from the first full pay period on or after 1 October 2017;
- 0.5% from the first full pay period on or after 1 June 2018;
- 1.35% from the first full pay period on or after 1 December 2018;
- 1.35% from the first full pay period on or after 1 June 2019;
- 1.35% from the first full pay period on or after 1 December 2019;
- 1.35% from the first full pay period on or after 1 June 2020;
- 1.35% from the first full pay period on or after 1 December 2020; and
- 1.35% from the first full pay period on or after 1 June 2021.

For the first time, superannuation entitlements will be included in the Agreements in full. Members of preserved schemes like the CSS and PSS will continue to receive the contributions they do currently. Members of Superannuation Guarantee Funds are currently receiving 10.5% (9.5% Super guarantee + the current additional employer contribution of 1%). This will increase to:

- 10.75% on 1 July 2018;
- 11% on 1 July 2019; and
- 11.5 % on 1 July 2020.

The Government will continue to offer 1% additional employer contribution for members of Superannuation Guarantee Funds who choose to contribute at least 3% of their salary to their superannuation.

### **The Firefighters' Offer**

The ESA's offer of a 10% pay increase for ACT Fire & Rescue in the first year, in addition to the ACT Government's core agreement offer, is designed to embed modernised principles within the EA that will increase diversity, improve workplace health and safety, and provide much greater rostering flexibility as we are able to do within our other workforces. It also place an emphasis on consultation with Firefighters and their representatives.

There are six priority areas where the ESA recommend seeking reform in the replacement EA. These are:

1) **Make-up pay**

The removal of the make-up pay for personnel absent due to an accepted workers' compensation is proposed to be replaced with stronger rehabilitation and case management processes.

2) **Commitment to consultation rather than agreement**

A focus on consultation rather than agreement, where appropriate throughout the Agreement, but continuing the focus on the importance of consultation and the important role firefighters play in developing the Fire Service.

3) **Enhanced recruitment**

Amendments to recruitment provisions and classification requirements to provide for open and transparent recruitment that enables a small number of senior roles to be filled by the best available candidate, which may be an external candidate.

4) **Fitness for role**

Incorporating provisions for ongoing firefighter fitness for role assessments.

5) **Flexibility in rostering**

To support access to accrued entitlements, workplace diversity, work/family balance and transition to retirement as well as reduction in overtime.

6) Removal or amendment of clauses

Removal or amendment of clauses not required or out of date including:

- (a) review of the *Public Sector Management Act 1994* (PSMA) and Public Sector Management Standards (PSMS) that apply to ACTF&R staff; and
- (b) renegotiation of the dispute avoidance provisions.

Further information on each of these six priority areas is provided below.

1) Make-up pay

This current arrangement maintains firefighter's normal weekly earnings (NWE) at 100 per cent while the firefighter remains covered by the enterprise agreement regardless of the length of absence on compensation. This benefit exceeds that payable to other ACT Public Sector (ACTPS) employees whose salary reverts to 75 per cent of NWE, where absence on workers' compensation exceeds 45 weeks.

This arrangement has been available to firefighting personnel since the late 1980s and was enshrined in the relevant Industrial Award and now enterprise agreements. The benefits of this proposed reform are more significant to organisational culture i.e. rehabilitation outcomes than the direct financial benefit to ESA.

2) Commitment to consultation rather than agreement

There are several clauses and key areas where it is stipulated agreement is required between the Government and the union before a matter can progress. These clauses are not an effective workplace practice as only three clauses have been implemented to any degree. Change is sought to amend those clauses to provide an emphasis on enhanced consultation, rather than on agreement.

The proposal is underpinned by the Government's strong commitment to ongoing and genuine consultation. ESA is similarly committed to consultation and I understand the importance of seeking the views of our workforce prior to making decisions that impact on them. This includes their views on facilities, equipment, resources, uniforms and protective clothing, recruitment and training issues.

The proposed clause covering consultation also has a 'catch-all' – that is where ESA and the UFUA do not agree that a matter is of such importance that consultation is required, the default is that consultation must occur. This ensures consultation occurs on any matter the UFUA wishes it to occur on.

### 3) Enhanced recruitment

There are currently two recruitment streams within ACTF&R. These are:

- a) Community based recruitment - individuals may apply to join ACTF&R as a recruit firefighter. Progression from a recruit firefighter up to a senior firefighter (FB5) is based on attaining prescribed competencies and minimum years at the previous rank. For example, a First Class Firefighter (FB4) is an employee who:
  - i) has completed one years' satisfactory service at second class firefighter (FB3) level;
  - ii) possesses the required competencies and has completed the Fire Service specific training to perform the duties of this level; and
  - iii) possesses sufficient knowledge and experience to perform duties at this level; and
  
- b) lateral recruitment - individuals who are currently in another fire service may apply for lateral recruitment. However, this is currently limited to recruiting for third class firefighter (FB2) to senior firefighter (FB5) classifications only:
  - i) existing ACTF&R staff who are at the rank immediately below that of the vacancy may apply for promotion. This recruitment is restricted to advancing one rank at a time, irrespective of an employee's skills and prior experience. There are currently mandatory service periods in the preceding rank that inhibit the application of merit principles for existing staff and prohibits the recruitment of suitably qualified and experienced individuals external the ACTF&R. Lateral recruitment is currently not possible to fill positions for the rank of station officer (FB6) through to superintendent (FB8).
  - ii) these restrictions, particularly in relation to movement to senior officer roles undermine the fundamental principles of merit that are applied to the remainder of the ACTPS;
  - iii) additionally, these restrictions are not in line with the Women in Emergency Services Strategy (WIES Strategy) as it essentially restricts the advancement of women in ACTF&R. It will be nearly seven years before the women who have recently joined ACTF&R have the opportunity to reach the first level of management under the current agreement.

### 4) Fitness for role

Currently, after a firefighter commences employment there are no further fitness for role tests conducted.

Our proposal on fitness relates to the inherent physical and psychological requirements of the role and also the short-term variances due to fatigue, drugs and alcohol. Licensing and work health and safety considerations regarding the use of heavy machinery and working in dangerous and dynamic environments support better fitness for duty provisions. Annual assessment for fitness for work has resulted in safer outcomes in other jurisdictions. It is also understood that these will be introduced in New South Wales in the near future.

The absence of regular assessments is inconsistent with the robust entry requirements for community and lateral recruitment.

Consideration will be given to developing standards not only for community recruit entry, but for each rank and role in ACTF&R. The implementation of ongoing assessment and the development of processes when an individual no longer meets these requirements will also be implemented.

#### 5) Flexibility in rostering

Some current provisions limit flexibility, including those involving staffing arrangements. For example, part-time arrangements, which were only introduced in the 2006–2010 agreement, limit a part-time worker attending in accordance with the existing 24 hours/seven days per week roster comprising of a 10 hour day shift and 14 hour night shift (10/14 roster); meaning the part-time worker must rotate through the four days on/four days off cycle and undertake the 10 hour day shift or 14 hour night shift in that cycle. This restricts part-time workers from specifying days of the week that they can or cannot work. The individual is also required to have had a minimum of three years operations experience and be at the rank of Firefighter 1st class A (FB4) or higher. Additionally, if an individual working part-time is promoted to FB6–FB8 level they must revert to full-time for a minimum period of two years.

The restrictive nature of these provisions, particularly the requirement to attend on the 10/14 roster does not support the reduction of leave liabilities, overtime and particularly the WIES strategy. Flexibility in attendance may also improve fatigue management, morale and family-friendly work arrangements. It may also decrease absenteeism as anecdotal evidence suggests staff choose not to request a day off to attend personal appointments believing it will not be approved, but elect to absent themselves on personal leave.

Another area that may increase flexibility to rostering would be the inclusion of a provision giving the employer the ability to direct staff with excess leave to take annual leave. This would provide the added benefits of reducing leave liability, managing fatigue and alignment of ACTF&R with the provisions of other staff in the ACTPS.

Further, the current EA is overly prescriptive in relation to staffing numbers, which limits the ability of ACTF&R management to staff appliances on a risk basis. Clause 148 specifies that there must always be two FB7 (Commanders), 11 FB6 (Station Officers) and 39 FB2–5 (Firefighters) on each operational shift at all times.

Removal or amendment of clause 148 would provide greater rostering flexibility to occur, while still maintaining the required number of qualified firefighters to crew fire appliances and maintain the required level of fire coverage and community safety.

6) Removal or amendment of clauses

There are a number of clauses not required or out of date.

One such area is the provisions that remove the application of parts of the PSMA and PSMS from applying to ACTF&R staff. This approach was initially taken to assist with the transition on the repeal of the Fire Brigade (Administration) Act 1974 and the Fire Brigade Act 1957 in 2004 on the introduction of the *Emergencies Act 2004*.

While the numbering of clauses has been maintained, a comprehensive review of these, particularly with the recent amendments, is required with the view to aligning ACTF&R provisions as much as possible to those of other ACTPS employees.

**What happens next?**

The UFU has elected to pursue a campaign of industrial action. While this is unfortunate, workers have a right to do this.

While this occurs the ESA will continue to meet to try to settle the issues raised and to respond where necessary to ensure the safety of Canberrans is not compromised.