

## Transcript

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Compere: **DAN BOURCHIER** Summary ID: **X00078333154**  
Item: **INTERVIEW WITH DOMINIC LANE, COMMISSIONER, ESA.**  
**INTERVIEWEES: DOMINIC LANE, COMMISSIONER, ESA**

Audience:	Male 16+	Female 16+	All people
	5000	11000	18000

**DAN BOURCHIER:** A little earlier you might have heard the conversation with the Firefighters Union about the win that they've had in the Federal Court - winning access to a years worth of pay, work and overtime records. They say the Government isn't employing enough fire fighters and that the fire fighters are being overworked and underpaid. ESA Commissioner Dominic Lane has welcomed this decision. He says that it frees up the ESA from the privacy concerns to give these documents. He's here now, good morning. What does this say though about the ESA's holding of these documents?

**DOMINIC LANE:** Good to be with you Dan. Look I think the main thing is we were particularly concerned about Territory zone Information Privacy Act which expressly says, as we've interpreted it, that employers do not have to provide documents to permit holders under the Fair Work Act if it's a breach of the law of the Territory. The benefit of obviously this being heard in the Federal Court and allowing that consent to go forward means that the Court has made the Order that we can hand over all of those private documentation to the Union which of

course we will do without having to seek the consent of the employees to do so.

DAN BOURCHIER: So does that reinterpret your interpretation of the Privacy Law in the ACT?

DOMINIC LANE: Look it's not really a matter of our interpretation. We, we, we welcome the Court's outcome and we'll abide by the Federal Court's decision on this matter - it's as simple as that. It's not for us though to try and interpret the differences between what the Fair Work Legislation says and the Territory Privacy Act then - that's why the Court makes these rulings.

DAN BOURCHIER: And on similar matters if there were requests for documents you would now be able to just hand them over using this precedent?

DOMINIC LANE: Well not, not, not exactly Dan. As a principle we don't hand over the private information of our employees willy nilly. We'll do that with obviously due consideration of the Court's decision and we'll seek our own advice from appropriate people based on that ruling. But obviously we do remain concerned that information of - is han- of private information of our employees is handed over to third parties. We want to make sure that's done in the most appropriate and lawful way.

DAN BOURCHIER: A fire fighter worked 48 hours it's alleged with only a six hour break time - did that happen?

DOMINIC LANE:

Look I haven't heard that allegation until I listened to your program earlier this morning. I'm particularly concerned about that and obviously keen to investigate that further. What it will lead me to do, based on that particular allegation, is review more broadly within ACT Fire and Rescue the practices of overtime to make sure those things don't occur. So I'll be expressly taking that one up to make sure because I have the similar concerns that the Union Secretary Greg McConville has in relation to the health and welfare of our own fire fighters. So that's something we'll be particularly actioning following that allegation.

DAN BOURCHIER:

Overtime is the real nub of the, one of the issues here isn't it? The Union says there's underpayment they suspect to be around \$1 million that they'll confirm or change based on the documents that you hand over. What do you say to that?

DOMINIC LANE:

Well firstly the Territory doesn't underpay its employees. We, we interpret the legislation, we interpret the Fair Work Act and the provisions within it and make- and the obviously our own Enterprise Agreements and pay our people accordingly. The Union has a slightly different interpretation which is why its taken us to the Federal Court on this matter. We'll, again, work through that process. We would normally like to think we didn't, wouldn't have to play these things out in the Court and where employees have concerns about how they've been paid they should bring them forward as normal. However in this case the United Firefighters Union has decided to take the Territory to the Federal Court and that's where this

issue will either play out there, or as we would prefer in the Fair Work Commission where normally we'd deal with these sorts of matters.

DAN BOURCHIER:

The Union, as we heard earlier, are saying that they- this was the only option left to them because that was the only way that they could get these documents.

DOMINIC LANE:

Well that's not exactly true in that is we were served with a Fair Work- with an Order to go to the Federal Court last December and we'd decided to say: well hang on a minute, why isn't that played out in the Fair Work Commission? Which it will be where it should be from our perspective. Now ultimately that's a matter for the lawyers to work through with the Court's but what I do want to reinforce is we don't underpay our people, we pay them according to the various rules that we do. If there's an interpretation that is different to ours that comes out of the Court system then obviously we will abide by that.

DAN BOURCHIER:

And so are you saying the Union didn't follow due process in the way that its dealt with this?

DOMINIC LANE:

It's entirely up to the Union how it wishes to follow things through but what I would say to employees is if they think they're underpaid bring it to our ACT Fire and Rescue Payroll folks, we'll have a look at it and we can make a determination. If there needs to be further advice or greater interpretation of that then we're happy to sit down and work through that as well.

DAN BOURCHIER:

Is this fight having an affect on morale of fire fighters?

DOMINIC LANE:

Look it, its one of those things. The interesting thing about this from our perspective is on one hand the Union is being saying through the media that it doesn't wish to take our 10 per cent offer of pay rise on top of the additional 2.5 per cent per annum the Government's offering to support our fire fighters and say that needs to be vest- invested back in the fire service. And on the other hand here we are in the Court's arguing points of law around overtime and payments thereof. So these things can have an impact over time. We just say to our own people a reminder that we do have significant health and welfare services available to our people, that if they need then they should contact that. But certainly when it comes back to this issue of overtime and people working hours which could lead to fatigue, then I'm certainly keen to stop that. I would also point out Dan, we do believe we have enough to meet our minimum establishment of fire fighters here in the ACT and we'll continue to make sure that we use that establishment.

DAN BOURCHIER:

Well because the Union says that the number is likely 20 below that based on those that are on long service and annual leave. What do you say to that?

DOMINIC LANE:

Well just to be clear because obviously there seems to be a bit of confusion about how many fire fighters we need on the road. We put 52 fire fighters on shift, on stations everyday and we've always done that. So if you do those numbers across four shifts that would be 208 fire fighters. Now what we factor into that though of course is a relief factor of 50 per cent so for every fire

fighter there's an additional two to cover in terms of back fill and that - that takes you to 312 fire fighters. We already have 312 fire fighters here in ACT Fire and Rescue, in fact many more. So we're certainly not 20 under. We recognise that we're going through significant change and transition within ACT Fire and Rescue as a lot of people retire and we're working hard to recruit and train and bring a more younger, modern, diverse work force in, into the Fire service so that we can continue to do our job as well as we do.

DAN BOURCHIER: Dominic Lane, more to say on this. This is not over yet. We do appreciate your time this morning.

DOMINIC LANE: Thanks very much Dan and good to be with you.

DAN BOURCHIER: You too. Dominic Lane there the Commissioner of Emergency Services saying that this way process followed, there are enough numbers - I'll leave it to you to decide.

\* \* END \* \*

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