

UFUA’s FINDINGS OF FACT SOUGHT

The UFUA seeks the following findings of fact from the evidence in the hearing:

1. The MFB/CFA seek the proposed Modern Award variations “in the context of a bargaining framework”¹ for the purposes of improving their negotiating positions with the UFUA, and have no intention of implementing the terms set out in the Draft Determination: (eg) oral evidence of Lucinda Nolan; Joseph Buffone, Steven Warrington; filed statements of Bruce Byatt (second statement) at [33]-[36]; David Youssef (second statement) at [30]-[40]; Steven Warrington at [30], [58].
2. The MFB and the CFA have undertaken no steps to assess the impact of the Draft Determination, including whether it should include operational parameters (such as qualifications as to its scope and application) which would achieve the Modern Award objectives with a minimum impact on welfare and safety of employees and service delivery.
3. The MFB and the CFA each agreed in 2010 that “for reasons including the welfare and safety of employees” to:
 - (i) limit the types of employment to full-time engagement only²; and
 - (ii) restrict the available rosters to the 10/14 Roster for operational firefighters (together with emergency and special duties rosters for exceptional cases).³
4. Firefighters work in teams. The vast majority of skills maintenance is undertaken on-shift and on-station in a team environment. The 10/14 Roster is most conducive to allowing such a training framework to continue: (eg) Cory Woodyatt at [4]-[8].
5. Working consistently with the same team members on-shift gives rise to confidence within the unit of each team member’s ability and capacity to perform operations to a high standard: (eg) Cory Woodyatt at [4]-[8].

¹ MFB/CFA Reply Submissions at [27]; *cf* [34].

² Clause 37 of the MFB-UFU Enterprise Agreement 2010 ([2010] FWAA 7414); Clause 29 of the CFA-UFU Enterprise Agreement 2010 ([2010] FWAA 8164).

³ Clauses 76, 77 of the MFB-UFU Enterprise Agreement 2010 ([2010] FWAA 7414); Clauses 75, 76 of the CFA-UFU Enterprise Agreement 2010 ([2010] FWAA 8164).

6. There is a strong nexus between the quality of skills acquisition and maintenance, and the time spent at work. The less time a firefighter is at work, the more likely it is that skills acquisition and maintenance will be compromised: (eg) Gerald (Archie) Conroy at [11]-[12].
7. The introduction of part-time work (either within the 10/14 roster or by way of the introduction of a new operational day worker roster) has the potential to impact on skills acquisition and maintenance, and therefore the “welfare and safety of employees”.
8. Any derogation from full-time minimum crewing numbers has the potential to impact on the “welfare and safety of employees”.⁴
9. It is essential for part-time employees to perform both day and night shifts in order to maintain skills due to the different demands and types of incidents that occur (with the greater frequency of operational incidents at night): (eg) Cory Woodyatt at [22].
10. Recruits and Level 1 to 3 firefighters undertake an intense skills acquisition regime which is not amenable to the introduction part-time employment: (eg) Kirsty Schroder [10]-[15], [31].
11. Any negative impact on response times due to the additional complexity introduced to operational decision-making by the introduction of part-time employment (due to such considerations as the maintenance of skill levels, and employee availability; (eg) Malcolm Hayes at [20]) presents a potential danger to the community: (eg) Bradley Quinn at [14].
12. The Victorian Police undertook a five year pilot program of limited scope to assess (including by way of “trial and error”) the suitability of part-time employment: (eg) Lucinda Nolan at [12]-[14].
13. The mode of operation of the police service and ambulance service (including in respect of skills acquisition and skills maintenance) are relevantly different to the fire services.
14. No relevant emergency service provides for the unqualified availability of part-time employment in the form of the Draft Determination. A variation to the Modern Award in the terms sought would be unprecedented in emergency services prescriptions.

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⁴ Clause 33.1 of the MFB-UFU Enterprise Agreement 2010 ([2010] FWAA 7414); Clause 27.1 of the CFA-UFU Enterprise Agreement 2010 ([2010] FWAA 8164).