

INQUIRY INTO EMERGENCY SERVICES AGENCIES

Organisation: Volunteer Fire Fighters Association

Date received: 23 July 2017

Partially
Confidential

Volunteer Fire Fighters Association

"The Voice of Volunteer Firefighters in NSW"

PO Box 123, Clarence Town NSW 2321



July 23, 2017

Portfolio Committee No. 4 – Legal Affairs
Parliament House
Macquarie Street
SYDNEY
NSW 2000

The Director

Inquiry into Emergency Services Agencies

I have elected to make this document a public submission that can be published in full.

I am happy to be named and be referred to in the committee report.

I would also like to be given the opportunity to give oral evidence to further support this submission.

Introduction

My name is Michael (Mick) Holton.

I have worked as a NSW firefighter in a number of capacities as follows:

1. I worked as a Retained Firefighter with NSW Fire Brigades (now Fire and Rescue NSW) for approximately 18 months at Lake Cargelligo.
2. I worked as a full time (permanently employed) Firefighter with NSW Fire Brigades (now Fire and Rescue NSW) for approximately 20 years in various roles and locations.
3. I worked as a full time Learning and Development Officer with the NSW Rural Fire Service for approximately 4 ½ years with the Monaro Team (Bombala, Cooma Monaro and Snowy River Fire Districts).
4. I now serve as a NSW Rural Fire Service (RFS) Volunteer Firefighter with approximately 9 years of service and I am attached to the Dry Plain Rural Fire Brigade (RFB).

I am currently holding the position of President for the Volunteer Fire Fighters Association (VFFA).

The VFFA has been formally recognised by the NSW State Government.

Terms of Reference

This submission is focusing upon the following Terms of Reference:

1. The prevalence of bullying, harassment and discrimination, as well as the effectiveness of the protocols and procedures in place to manage and resolve such complaints within the NSW RFS.
2. The support structures in place to assist victims of workplace bullying, harassment and/ or discrimination within the NSW RFS.
3. The support services available to emergency services workers and volunteers to assist with mental health issues resulting from workplace trauma and the effectiveness of those programs.
4. The relocation of the New South Wales Rural Fire Services Headquarters to Orange, Dubbo or Parkes.

Background

The report titled "A Nation Charred: Report on the inquiry into bushfires" was prepared by Mr Gary Nairn, MP on the 23rd October 2003 as the Chair of the House of Representatives, Select Committee into the recent Australian bushfires (referring to the 2003 bushfires in the ACT).

In that report (The Nairn Report), Mr Nairn stated that the Committee heard a consistent message right around Australia:

- There has been grossly inadequate hazard reduction burning on public lands for far too long.
- Local knowledge and experience is being ignored by an increasingly top-heavy bureaucracy.

Volunteers for community and the environment

- When accessing the source of fires, volunteers are fed up with having their lives put at risk by fire trails that are blocked and left without maintenance.
- There is a reluctance by state agencies to aggressively attack bushfires when they first start, thus enabling the fires to build in intensity and making them harder to control, and
- Better communications between and within relevant agencies is long overdue.

This submission suggests that very little has changed in the 13 years since the report by Mr Nairn with every increasing bureaucracy, disregard for volunteer firefighters, failures to engage local knowledge and a reluctance by state agencies to aggressively attack bushfires.

There appears to be a number of direct connections between the issues highlighted by the Nairn report and the Terms of Reference for this inquiry.

The most concerning of these connections is the bullying and harassment of volunteers who speak out against this bureaucracy.

I have witnessed two cases where the bullying and harassment has had a catastrophic impact upon the health and welfare of the individuals involved and many other cases where the individuals have required council from a third party.

Key Issues

1. Failure to properly engage local knowledge

The importance of “Local Knowledge” cannot be understated and the recognition of this simple fact is evident in almost all forms of emergency service training and legislation.

The RFS command and control system during the suppression of a major bush fire is failing to take into account the recognition and utilisation of local knowledge and skills.

Failure to engage local knowledge and in many cases a blatant disregard for local knowledge is a form of bullying that has the potential to destroy our rural culture, our environment and our way of life.

This form of bullying, harassment and discrimination is evident when we review our relationship with farmers, rural communities and indigenous Australians.

Whilst we recognise that there are many theories concerning land management and fire suppression, the correct balance cannot be achieved whilst we push the local knowledge aside.

Long serving local volunteer firefighters have reported being told that “If they don’t like the way that the NSW RFS is heading, they should leave”.

Indigenous Australians are beginning to restore some parts of Australia to indigenous land management practices. But in many locations, the traditional land owners are not engaged at all.

It is recommended that the NSW State Government works towards the inclusion of indigenous land management subject matter experts (SMEs) in the Bush Fire Management Committee (BFMC) and Bush Fire Coordinating Committee (BFCC) structures.

The Volunteer Fire Fighters Association (VFFA) or another independent body that represents volunteer firefighters, should be given an opportunity to represent volunteer firefighters on these committees.

Supporting Evidence

(a) Sir Ivan Fire Ground Field Trip – NSW RFS not listening to the locals.

I visited the Sir Ivan fire ground as a VFFA representative on Saturday 18th February 2017 with local farmer, David Bowman as my guide.

It was good to have access to David’s local knowledge as we navigated our way around the properties, met with land owners, surveyed the destruction of farmland, stock, and other assets.

David grew up in the area and without his extensive knowledge I would not have known where to begin.

I came away from this field trip feeling disappointed and angry that the NSW RFS had once again, ignored local knowledge and had failed to properly engage local resources.

We began with a statement from David Bowman, saying “the RFS is not listening to the locals”, a theme that echoed throughout the day.

(b) "If you don't like the way the RFS is heading – leave".

is a long serving volunteer and Group Captain. He is well known for his bush firefighting ability and his compassionate leadership style.

When the bureaucracy became a problem for the volunteers in his local area would happily confront the NSW RFS staff and senior staff members to help sort out any problems.

A senior staff member (whom I can name if required) told that he could leave if he did not like the way that the NSW RFS was headed.

The problem is that many volunteer firefighters are doing just that. We are losing some great people, fantastic skills and local knowledge as people walk away after many years of service.

(c) National Fire Experts Group (NFEG) ignored

The VFFA has facilitated the assembly of a group known as the National Fire Experts Group (NFEG).

This group was formed to establish a National body, comprising experts in fire science, operations and history, to work to improve the protection of our people and our environmental, economic and community assets from bushfire damage.

The NFEG membership includes:

- Phil Cheney - Fire scientist.
- Roger Underwood – Chairman of The Bush Fire Front, WA.
- David Pakham - Fire scientist.
- Bill Gammage - Fire Historian.
- Vic Jurskis - Forester, Fire Ecologist
- Mark Adams - Professor, Fire Science Researcher.
- Victor Steffensen - Indigenous Land Management Consultant.
- Barry Aitchison - Former Fire Control Officer (FCO).
- Peter Cannon - VFFA Life Member and Long Service Volunteer Firefighter.
- Brian Williams - VFFA Vice President and Long Service Volunteer Firefighter.
- Mick Holton – NSW Fire Brigades (Fire and Rescue NSW), VFFA President and Long Service Volunteer Firefighter.

The NFEG has been ignored by the NSW RFS because their views do not always support that of the RFS.

(d) Group Captains are not being engaged in many locations

Captains, Group Captains and Deputy Group Captains are losing their influence upon RFS decision making (both operationally and in a general business sense).

Early operational decisions (especially on bad fire days) should be made in consultation with senior volunteers.

Senior volunteers should be part of interview panels for staff positions.

Many volunteers are leaving, rather than bucking the system.

2. The prevalence of bullying, harassment and discrimination

The VFFA has received numerous complaints from long serving volunteers who have been poorly treated by NSW RFS staff and some other volunteers.

It appears that these instances of bullying, harassment and discrimination are targeted towards any volunteer or staff member that does not follow the desired direction of the NSW Rural Fire Service.

There is an increasing tendency for some staff to actively influence elections and cause removal of Senior Volunteers from positions whenever they believe those members have found it necessary to not support views championed by staff and management.

This by its nature can only encourage a breakdown of the chain of command that has a potential for catastrophic outcomes.

Some volunteers choose to remain silent but complain behind the scenes and many loose interest and leave the service.

Supporting Evidence

(a) Legal Cases

I am happy to discuss certain instances of bullying and harassment during the giving of oral evidence but it may not be appropriate to publish that information in this submission.

(b) My own experience

Attempts were made to bully me into submission when I stood up for the rights of volunteers whilst I served as an RFS staff member. Claims were made that I had breached the NSW RFS Code of Conduct.

I fought against those claims and later decided to abandon my NSW RFS career and I now fight for other similar issues through the VFFA.

(c) Bullying survey results

The VFFA conducted a survey of volunteers over a period of 9 months (21st May 2016 to 6th March 2017) with the following results:

Question 1: Are you a NSW RFS Volunteer Firefighter?

Result: 14.63% No 85.37% Yes

Question 2: In your opinion, have volunteers lost control of local firefighting?

Result: 28.95% No 71.05% Yes

Question 3: Have you witnessed or experienced this "loss of control" on the fire ground?

Result: 32.43% No 67.57% Yes

Question 4: In your opinion, is bullying and harassment going on in the NSW RFS?

Result: 18.92% No 72.97% Yes 8.11% I'm not sure

Question 5: Have you been directly impacted by bullying within the RFS?

Result: 35.14% No 62.16% Yes 2.7% Skip this question

Question 6: Have we lost experienced and long-standing volunteers as a result of the bullying?

Result: 16.67% No 75% Yes 8.33% Don't know

3. The effectiveness of the protocols and procedures in place to manage and resolve such complaints

The NSW RFS disciplinary procedures do not provide appropriate procedural fairness and impartiality and have been developed in a way that appears to favour the NSW RFS not the volunteer.

The disciplinary procedures deny volunteer firefighters rights to legal representation in investigation interviews, and lack procedural fairness. The RFS appointed investigator does have any obligation to provide all relevant information to the volunteer firefighter during the investigation process.

Supporting Evidence

(a) Legal Cases and Case Studies

I am happy to discuss certain instances of bullying and harassment during the giving of oral evidence but it may not be appropriate to publish that information in this submission.

(b) Legal Support Denied

I have retained correspondence that can be presented upon request, that appears to complicate the process by which a particular volunteer was subjected to after requesting legal support. The steps and information that was requested could easily have jeopardised the defence of that individual.

Recommendations

The NSW RFS must properly conduct and conclude investigations into the alleged unsatisfactory behaviour in a timely manner. If this is not possible, they should provide the volunteer with procedural fairness and impartiality as follows:

- a. At the beginning of the disciplinary process, the RFS and the volunteer will meet to determine the length of the investigation.

- b. The NSW RFS shall provide sufficient resources to ensure that, unless there are complicating factors, any investigation should be concluded within four weeks.
- c. If there are complicating factors, and the investigation cannot be concluded within four weeks, the NSW RFS and volunteer will meet again to discuss and agree to an appropriate length of the investigation.
- d. The person who investigates the volunteer must not have been involved in the matters and must be impartial.
- e. The person who investigates the volunteer must be suitably trained in conducting an investigation.
- f. The person who investigates the volunteer must declare any conflict of interest prior to the investigation and remove themselves from the investigation if they become aware of a conflict of interest.
- g. The NSW RFS investigator must provide to the volunteer, all material upon which it seeks to rely.
- h. The NSW RFS investigator must interview all witnesses present and provide to the volunteer, all witness material upon which it seeks to rely.
- i. The volunteer firefighter may nominate witnesses in support and the investigator shall interview those witnesses.
- j. The investigator shall consider any material prepared by the volunteer.
- k. The investigator shall not be subject to directions as to the conclusion reached.
- l. The RFS must provide a copy of the investigation report to the volunteer firefighter for comment before the RFS makes a decision as to the matters the subject of the investigation.
- m. If the RFS finds any of the matters proved, the RFS must provide the volunteer firefighter with a right to be heard as to the penalty, if any, to be imposed.
- n. The volunteer firefighter shall be entitled to appeal to an independent third party external to the RFS.
- o. The volunteer firefighter shall be entitled to request the presence of a legal representative at any stage.

Procedures

Where a volunteers' performance or conduct is considered unsatisfactory, the volunteer shall be informed in the first instance of the nature of the unsatisfactory performance or conduct and of the required standard to be achieved. At the same time the RFS shall, in a sensitive manner, enquire as to whether or not the alleged performance issue(s) may be in part or wholly a result of any issue(s) that may benefit by referral of the volunteer to a Volunteer Assistance Program. Such issues may include but not be limited to, drug or alcohol use, mental health issues, or domestic violence. Such information, if provided by the volunteer, is provided on a discrete and confidential basis.

4. Nepotism, Favouritism and Similar Forms of Discrimination

A NSW Parliamentary Research Service briefing paper titled "Integrity in government: issues and developments in New South Wales, 2011-2015 (Briefing Paper No 1/2015) by Gareth Griffith includes the following content:

Ethics and The Public Service

A defining characteristic of modern representative democracies is that that they are based on a model of bureaucracy that sets patronage aside in favour of a merit based system of employment and advancement. Such systems can be contrasted with tribal societies where the tendency is to favour family and close kin. Stated colloquially, 'It's who you know'. According to Francis Fukuyama, the tribal system is the default state of early human societies; so strong is the system that it never fully disappears, with the result that nepotism and patronage must always be guarded against.

The VFFA is concerned that the discrimination that has manifest into a range of bullying and harassment cases is often linked to nepotism and favouritism. The power base of the NSW RFS appears to be firmly entrenched in the Warringah Pittwater / Northern Beaches in the Greater Sydney Area (GSA).

Supporting Evidence

(a) RFS Senior Staff Relationships

The VFFA has researched and documented the relationships between 58 senior staff positions and additional roles for persons engaged to investigate disciplinary actions.

I am happy to discuss this situation further during the giving of oral evidence as it may not be appropriate to publish that information in this submission.

Recommendation

The VFFA recommends that a relocation of the NSW RFS Headquarters to a regional or rural locality would help to promote the influx of new staff from a broader range of people. More importantly, we might see a greater rural influence to balance the direction of the NSW RFS into the future.

5. The relocation of the NSW RFS Headquarters to Orange, Dubbo or Parkes

Many regional and rural people, farmers and those who live in the rural / urban interface have expressed a desire to see the NSW RFS Headquarters relocated to a locality that better suits engagement with regional and rural people.

Consultation with regional and rural people (including volunteer firefighters) has identified a 'disconnect' between the existing NSW RFS management and its clients (the people of regional and rural NSW and the NSW RFS volunteer workforce).

The NSW RFS city-centric management has lost touch with the original intention of the RURAL Fire Service with skilled and experienced firefighters walking away after many years of dedicated service.

Some examples of disconnection with rural people include:

1. Removal of practical, early fire suppression equipment like the tanker trailers used by many farmers.
2. Discouragement and removal of radio communication systems that are accessible to farmers, volunteers (at home) and the local community. Often replaced with social media that does not always work in many areas.
3. Perceptions of asset protection are based upon city centric ideals and cultures.
4. Moving away from land management practices used by indigenous Australians and farmers.
5. Development of plant machinery registers and contractor agreements, with strict regulations that discourage local engagement by farmers with machinery.
6. Allocation of funding, determined upon local government wealth whilst rural areas are often neglected. State money should be distributed across the state based upon local needs, not local wealth.
7. Management of fires without local input and engagement.
8. Failure to recognise the firefighting capability of farmers and other local resources.
9. Failure to retain existing firefighting capabilities and techniques as new firefighting technologies are developed.
10. Firefighting has become "Big Business" with many persons, companies and contractors deriving large incomes from firefighting activities. This has created a situation where a perception of "delaying extinguishment for profit and profile" has developed.
11. Burning has been surrounded by too much red tape, also referred to as 'green tape'.
12. Rural people, with many years of experience are being pushed aside and asked to leave the RFS.
13. Rural people are being subjected to bullying and harassment if they choose to actively oppose and speak out against the direction of the RFS. This problem is so serious that the VFFA is genuinely concerned about the welfare of these people.
14. Training is moving away from the 'hands on' approach (popular with many rural people) and being replaced by on-line content that gobbles up download limits and required bandwidth that many rural people don't have access to. There is a financial and logistical cost associated with this type of training that has not been properly addressed by government. Perhaps every NSW RFS station needs a computer and an internet connection. Many don't even have power.
15. Expansion of RFS capability without rural consultation.

16. Claims of Volunteer consultation are based upon urban RFS influence because those demographics have greater access to the chosen NSW RFS communications media / networks and infrastructure.

The benefits of decentralisation are:

1. More room / space for the NSW RFS to set up their State Operations.
2. Cheaper real estate with the opportunity for transfer of existing government owned land at low cost or no-cost to tax payers.
3. More central location for deployment of staff and resources to support volunteers across the State.
4. Less traffic.
5. Easy access to aviation including domestic flights and operational aviation capability.
6. Opportunity to engage more rural people into NSW RFS staff positions over time.
7. An opportunity for existing NSW RFS staff to cash in on a more cost-effective lifestyle, lower cost real estate and country living.
8. Jobs for rural NSW.
9. Spreading emergency service operations around the state. Don't have all your eggs in one basket (Sydney basin).
10. Room to develop a state training facility for more "hands on" training.
11. The ability to construct and develop a "state of the art" NSW RFS Head Office that is more spacious and at a fraction of the cost associated with developing a facility in Sydney.

Summary

1. Failure to properly engage local knowledge

Failure to engage local knowledge and in many cases a blatant disregard for local knowledge is a form of bullying that has the potential to destroy our rural culture, our environment and our way of life.

This form of bullying, harassment and discrimination is evident when we review our relationship with farmers, rural communities and indigenous Australians.

It is recommended that the NSW State Government works towards the inclusion of indigenous land management subject matter experts (SMEs) in the Bush Fire Management Committee (BFMC) and Bush Fire Coordinating Committee (BFCC) structures.

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Regards

Michael Holton
President
Volunteer Fire Fighters Association