

Submission  
No 118

## INQUIRY INTO EMERGENCY SERVICES AGENCIES

Name: Name suppressed

Date received: 23 July 2017

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Partially  
Confidential

23 July 2017

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

## **Inquiry into Emergency Services Agencies**

Dear Sir/Madam:

I am writing to make a submission to the current enquiry.

I request that my submission be considered partially confidential due to the nature of my employment, and the security arrangements I have in place for myself and my family so that my activities outside employment cannot be readily identified to criminal and other interests.

### **Background**

This submission flows from my volunteer experience within the NSW Rural Fire Service (RFS) over the last two decades, and to a specific incident that led to consideration of the points raised.

I was involved in an incident whereby accidental damage to assets occurred. The damage was occasioned from an act of good faith.

Following the damage, the RFS District Manager wrote to my Brigade seeking money for the cost of damages. The brigade wrote back to the District Manager outlining that such a payment raised concerns regarding liability.

### **Bullying**

In response, the District Manager corresponded that it was considered that the Brigade had “[financial] *responsibility for its member’s negligent actions.*” Otherwise stated, the RFS consider brigades to be vicariously liable for the actions of their members.

The District Manager also stated that *“A request of this type is not new within the District, a number of Brigades have indeed paid similar reimbursements for the damages to plant and equipment.”*

Also stated was *“If your Brigade does not submit reimbursement... I will have no alternative than to find these funds out of other resources and support provided to your Brigade. I would also have to consider if it is not appropriate to recommend disciplinary action be taken against the OIC and the driver of the day of the accident.”*

The link to disciplinary action against volunteers and payment was made on a number of future occasions, both directly and indirectly, including:

- A refusal to answer a direct question about disciplinary action when asked directly if it would be pursued, prior to the Brigade indicating its agreement or otherwise to pay;
- The withdraw of disciplinary action only upon agreement that the brigade would make payment;
- Correspondence from the District to the Region indicating that disciplinary action was an option; and
- Direct verbal communication from the District Manager that disciplinary action would have been pursued against someone other than myself.

I regard those actions as the use of bullying or coercion against volunteers to obtain payment.

Recommendation: The RFS must ensure that the use of Disciplinary Process is not utilised as a form of bullying or coercion.

The actions raise concerns as to whether Brigades are indeed liable or not, and whether the RFS or state of New South Wales does indemnify volunteers and volunteers collectively in their brigades. The funds sought are donated and otherwise fundraised by payments directly to the Brigade from individuals and organisations that would reasonably be expecting to be contributing to the betterment of a Brigade and its cohorts rather than covering RFS costs.

The ambiguity of liability has led to me limiting my involvement, and specifically not responding to pager calls given the level of risk stemming from incidents, to minimize the risk to funds donated to my brigade and/or to individual volunteers.

Recommendation: It should clearly stated whether or not Brigades are vicariously liable for the actions of their volunteer members. The RFS should clearly state whether it is the RFS and the State or Brigades that indemnify volunteers and whether the State should have the power to control funds donated to individual Brigades.

### **Complaint Process**

When I sought advice from the Regional Office, my correspondence was directed back to the District Manager. It was therefore up to the District Manager to determine if his actions were appropriate or not.

When I advised that I wished to make a formal complaint to a new District Manager, I was advised that the complaint should be directed to the District Office. The same District Office that received final gain from a Brigade payment.

The District Office determined that no rectification was required, and that the matter was now closed, with no further avenue for escalation or independent assessment. The RFS therefore terminated a complaint at the origin of the actions leading to the complaint.

The RFS deemed the payment to be voluntary, despite the threatened actions against and individual volunteer to volunteers, and consequences to the resourcing of the Brigade if payment was not made. I refute the claim that the payment was voluntary.

Recommendation: There should be a process in place that allows volunteers to escalate or have independently assessed complaints that are not satisfactorily resolved by the volunteer's own District management. If there is a process in place, a concise description of the process should be available and provided to individuals intending on making a complaint or having made a complaint.

In general terms, it has oft been raised within my network that volunteers and Brigades who raise grievances simply won't be called upon for incidents or have resources reallocated. This culture disappoints me as it focuses on a fondness of incident attendance over other activities centered on prevention and mitigation.

### **Volunteer Representation**

It became to me during my dealings with the RFS that the organization the RFS encourages volunteers to join and participate in as their voice, the NSW Rural Fire Service Association (RFSA), does not represent or advocate for volunteers in what it considers to be industrial matters.

Even if the RFSA were to represent volunteers, it has a conflict in that it comprises employees and volunteers of the RFS. This point is illustrated by the fact that the District Manager advocating disciplinary procedures if payment wasn't made and/or consequences for the Brigade was, at that time, one of the state executive of the RFSA.

Employees have paid union representation in disputes, which is funded from a small fee out of employee income. In contrast, volunteers do not have a union and do not receive an income for what they do. Indeed, many volunteers gift substantial time and loss of income (such as loss of paid hours for causally and self employed members).

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I am aware that the Volunteer Firefighters Association provides representation for volunteers and is reliant upon volunteer efforts itself.

Recommendation: An independent body able to represent, advise and/or act as a point of referral to volunteers on matters that might be considered industrial disputes should be partially or fully funded by the state.

I wish you success in the deliberations of the Committee.

Sincerely,