



United Firefighters Union of Australia -
Tasmania Branch

Submission to the Steering Committee for
the Review of the Fire Service Act 1979

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Executive Summary

This submission seeks to clarify the position of the UFUA and to provide further context in response to the Tasmanian Government Fire Service Act Review Draft Proposals. This submission should be read in conjunction with the UFUA's previous submission on this matter, including the relevant appendices.

The UFUA believes it is essential that experts in the field of emergency management have statutory authority to act. This will reduce the potential for political interference and enable emergency services to operate efficiently and effectively to improve community safety in the public interest.

A reliable and increasing amount of base funding is essential for strategic planning and to ensure emergency service capabilities are maintained despite inflationary impacts on expenditure. This funding should continue to be protected from competitive budget processes and political interference to ensure a base level of community safety is provided in the public interest.

Legislation should clearly define the obligations and responsibilities of each emergency service. Consideration should be given to providing additional funding to ensure that each emergency service is able to develop capability in each area of obligation or responsibility, which may include additional equipment, storage facilities and training related expenses for personnel.

Governance and management structures of emergency services, not only need to be understood by its members; it is imperative that the people engaging in emergency response are confident in the organisational structure, management and resourcing. The shared values of trust, respect and understanding are of vital importance in emergency services. This is of even greater importance in emergency services that rely on people that give their time freely, sacrifice family time and other activities and sometimes risk their lives and/or livelihoods for the benefit of their community. There is a degree of confidence in the TFS and SES that will be lost by the Tasmanian community if the services members do not have a real capacity to manage organisational policy.

Legislative Principles

The UFUA believes that a strong legislative framework is required to ensure that powers and authority enabled by the Fire Service Act is limited to its intended use. Whilst some level of flexibility is important to allow an appropriate emergency response in unforeseen circumstances, it is critical that there are checks and balances in place to ensure that authority is not misused or delegated unreasonably.

Model of Governance

The UFUA considers the following to be crucial matters for consideration for determining a model of governance:

1. Independence and protection from political interference
2. The expected longevity of a proposed model
3. Ability to adapt to maintain services in changing social, political and environmental contexts
4. Experts are given authority to direct organisational policy
5. Staff and volunteers are enfranchised with a voice in organisational direction

Standalone Department Model

The UFUA believes that the proposed stand alone departmental model would provide enhanced capability compared to the existing model, but lack longevity. It appears likely that such a comparatively small department would inevitably be absorbed into another department.

The Advisory Board is of great concern as the experts do not have the authority to change policy.

The UFUA does not believe that this model would be suitable.

Departmental Model

The UFUA believes that this model would not resolve issues that have been raised by this review process. It may well exacerbate existing issues as the expertise on the State Fire Commission would lose their authority to change policy if they were to transition to become an Advisory Board.

This model would increase the potential for political interference in emergency services, which is not in the public interest.

The UFUA does not believe that this model would be suitable.

Tailored Model

The UFUA believes this model is superior to that of the Departmental Model and the Standalone Department Model. This model would likely have greater longevity than the Standalone Department Model and provides a more direct line of reporting between the Chief Officer and the Minister than the Departmental Model.

This model does not reduce concerns about potential political interference and continues to have an Advisory Board, with experts without the authority to change policy.

The UFUA does not believe that this model would be suitable.

Amended Statutory Authority

Of the models proposed, the UFUA believes that the Amended Statutory Authority model would be most suitable for ensuring operational functionality and community safety. This model provides the greatest protection from political interference and provides experts with the authority to change policy.

The UFUA has long advocated for the State Fire Commission to have skills based appointees, which this model would deliver.

It is concerning that it appears this proposal would replace the current constituent representatives with skills based appointees rather than supplement the knowledge and perspective already on the State Fire Commission. The removal of constituent groups from the statutory authority would hamper the ability for effective decision making that takes into account all aspects of the organisation. Constituent representatives often provide crucial information in relation to how reforms should be implemented and how

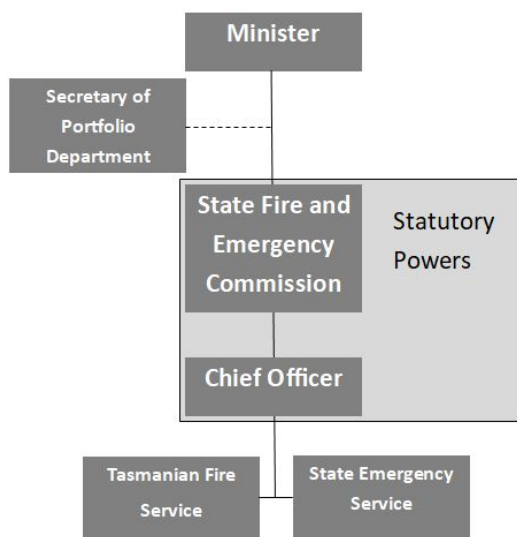
reforms may impact operations from various perspectives, including, but not limited to safety, volunteer participation and inadequate capability.

The statutory authority model also continues to provide for the need for real volunteer acknowledgment in the act (proposal summary item 23) that a statement or charter in an alternative act would not provide.

UFUA Governance Proposal

The UFUA believes the ideal model would be to amend the Statutory Authority to establish a State Fire and Emergency Commission (SFEC) with a mix of constituent representatives and skills based appointees.

The SFEC could provide strategic governance and oversight for the TFS and SES, which could continue to operate as separate emergency service organisations. This would greatly improve the strategic alignment of the TFS and SES whilst avoiding significant culture shocks within both organisations. When considering the impact of reforms that include the amalgamation of the TFS and SES, it appears that the Steering Committee may have under-estimated the potential collective impacts on the volunteer continents of both organisations. Retaining the TFS and SES as separate organisations with a common strategic planning and governance structure would most effectively mitigate 'volunteer risk'.



Proposed SFEC Membership

- Membership:
 - 1 UFUA Representative
 - 1 TFS Retained Association Representative
 - 1 TFS Volunteers Association Representative
 - 1 SES Volunteers Association Representative
 - 1 Department of Treasury Representative
 - 2 skills based appointments
 - 1 Chairperson appointed by the Governor

Funding Model

The UFUA believes that ring fencing of SFC funding would be essential. Ring fencing of funding through any model other than a Statutory authority is not considered by the UFUA as a realistic proposition and would always be subject to significant bureaucratic and government reprioritization.

The UFUA supports the potential for better funding for the SES through a new or increased levy. The UFUA believes consideration should be given to increase base funding to enable TFS to have greater capability in areas of responsibility as outlined in legislation and interoperability agreements.

Obligation and Responsibility

Legislation should clearly define the obligations and responsibilities of each emergency service. Where further detail is required, this should be supplemented by regulation or a code of practice.

Terminology

The terminology used in all future documentation in association with the Fire Service Act review should be defined or have a clear and common understanding.

The UFUA is concerned that terminology used in the Draft Proposals in relation to medical response is not defined and does not have a common understanding in the community. The medical services provided by Firefighters would be better described as 'emergency first aid'.

It is our understanding that the intention of the draft proposal is for Firefighters medical services to remain in line with the status quo, which is to provide emergency first aid as an ancillary service when attending an incident for which they would have otherwise attended had there been no casualties.

Incident Controller

The Fire Service Act currently establishes an Incident Controller as being from the first fire brigade on scene. Consideration should be given to the potential difference in skills, knowledge and capability of firefighters who are first on scene compared to those who might arrive at a later time. The current legislation could potentially give rise to a relatively inexperienced firefighter with only basic training being the Incident Controller, providing direction to more qualified and experienced firefighters. The UFUA believes that legislation should define the Incident Controller primarily based on merit, with particular regard to skills and experience.

Response to Draft Proposals

Draft Proposal	UFUA Response
1.	Integrating the service organisations will cause cultural issues within an amalgamated organisation. Maintaining the cultural identity of the organisations into the future is seen by the UFUA as intrinsic to the commitment and retention of volunteers and employees

	<p>of any emergency service organisation.</p> <p>The UFUA believes this will have a negative impact on staff and volunteer morale, which will ultimately lead to a significant decline in volunteer participation.</p> <p>Maintaining two service organisations under a single managing authority would greatly mitigate these concerns whilst ensuring there is adequate oversight to ensure alignment of operational services.</p> <p>Whilst amendments to the Emergency Management Act may be necessary to facilitate the proposed changes, it is unclear if amendments to the Emergency Management Act are within the scope of this review.</p> <p>The UFUA continues to advocate for concurrent reviews of the Fire Service Act and the Emergency Management Act.</p>
2.	<p>There is no legal definition for ‘first responder’ and there are varying views on what this terminology actually means in the community. The language used must clarify beyond reasonable doubt that firefighters will not be expected to respond to medical emergencies in place of Ambulance Tasmania or in the absence of Ambulance Tasmania. We believe that the term ‘emergency first aid’ would more accurately reflect the medical services currently rendered by TFS firefighters.</p> <p>UFUA consider any emergency response and management role undertaken by the organisation is recognised clearly in legislation and considered in the funding model</p>
3.	<p>The UFUA believes the Chief Officer should hold a statutory position which reports directly to the Minister.</p> <p>The UFUA is committed to supporting a governance model as outlined above</p>
4.	Agree
5.	<p>It is important that there is a high level of clarity as to the roles performed by emergency services and how emergency services interact.</p> <p>Heads of power for emergency management and response should be retained in Emergency Management Act such as the Fire Service Act and the Emergency Management Act. Arrangements for interoperability with land management agencies such as PWS should be managed through regulation within those acts. The UFUA is opposed to including emergency management provisions in multiple acts whose primary function is not emergency response.</p> <p>The responsibility as a function of TFS or SES for emergency response should also be clear in this act.</p>
6.	Agree in principle. The support role adopted should be clear. Additional recovery funding should be provided to cover expenditure related to support provided to DPAC in this area.
7.	<p>Ring-fencing of funding would be critical. The UFUA has concerns that it will be difficult to ring-fence funding in a way that will ensure adequate funding over future decades. A particular concern is how a mechanism could ensure that ring-fenced funding is indexed at a rate that matches CPI or an equivalent measure. This problem would be exacerbated by the projected impacts of climate change on capability requirements and</p>

	<p>therefore additional expenditure to maintain current levels of community safety.</p> <p>The UFUA understands the importance of managing the cost of fire service delivery, however, there must be flexibility to ensure that community expectations of fire service delivery are met.</p>
8.	<p>The contradiction of advisory boards is that they are recognised as having essential skills and knowledge, but do not have the authority to act with any effect using their skills and knowledge. While it is useful to have an expert group available to provide feedback and advice, they may be ignored to the detriment of community safety. This ineffective structure can be seen in the current fire service legislation's state fire management council as an advisory group to the Minister. That group had little or no recent input into the safety of the Tasmanian public prior to its reinvigoration because of criticism of fire management after the 2013 Dunalley fire event.</p> <p>If there is recognition that an advisory board has useful skills and knowledge, they should be given statutory authority to enact policy changes based on their skills and knowledge.</p> <p>The establishment of Advisory Boards with no authority provides opportunities for Ministers and ministerial appointees to ignore advice that is in the public interest. It also will impact on the worth of volunteers and employees when the opportunity to influence policy is removed thus reducing the numbers of engaged volunteers and in turn reduce public safety</p> <p>It is critical that emergency services are provided without (or with minimal) political influence.</p>
9.	Agree in principle.
10.	Not Agreed. The UFUA believes that it may not be realistic to assume insurance companies will pass on cost reductions to their customers. Alternate funding cannot be simplified as an equitable replacement.
11.	Agree
12.	Costs of emergency management including mitigation associated with federal government imposts on the state should be recognised in future funding as a responsibility of the federal government.
13.	<p>Self funding of marketing and regulatory roles of the organisation must acknowledge the community service requirements and make provision to ensure that a full cost recovery model is not imposed.</p> <p>Any reduction in funding must be offset by other revenue sources to ensure operational funding is adequate. MAIB revenue will be required unless another source of funding is established.</p>
14.	Programs imposed on TFS such as community safety programs and hazard mitigation programs should be provided for as base funding by the government.
15.	Funding for SES functions should at least match current expenditure. SES expenditure levels should be independently examined to provide advice for the required level of funding in SES needs in the future, based on the responsibilities allocated to SES in the TEMA and Emergency Management Act or successor Acts.

16.	Agree in principle, though UFUA does not believe that the Treasury should have sole discretion for adjusting the levy amount. A mechanism could be put in place whereby Treasury and SFEC agree on the rate of increase. Where agreement cannot be reached, the average increase over the preceding 5 years will be applied. This would assist with financial planning and provide greater certainty for SFEC.
17.	Agree in principle. The UFUA believes that the Federal government should not be eligible for these exemptions.
18.	Agree in principle. It's essential that funding volume and in kind support be maintained. Assets not considered appropriate should remain under council ownership. Appropriate funding should be provided by the Tasmanian government to facilitate the transition and assessment of assets.
19.	<p>The UFUA rejects the notion that appropriation based funding would change the behaviour of property owners in relation to being appropriately prepared for natural disasters. Particularly in the case of residential property owners, there are a number of non-financial reasons for them to be prepared for fires and natural disasters.</p> <p>Theories of economic rationalism may support this notion, but contemporary behavioural economic theory does not.</p>
20.	Agree in principle.
21.	Agree. The 4% collection fee no longer reflects the cost of collection and should be reduced through negotiation.
22.	Not Agree. The funds should be paid to the statutory authority in the same way that revenue is accumulated by other Tasmanian statutory authorities.
23.	<p>Not agreed. The provision of volunteer representation in an emergency services commission provides an opportunity for the constituents in the organisation to participate in the policy development and management of the authority. A charter will not provide this opportunity in a meaningful way.</p> <p>Current fire service act provides good faith protection to all officers and firefighters in the TFS. This provision has been tested and to be found adequate. The provision should be provided in any new legislation and include provision for issue 25.</p> <p>Legislative barriers do not exist in current legislation but the act should not allow for the degradation of employment conditions by surplanting merit based, State service positions with volunteers. Qualification should be the overriding factor in the appointment of any individual to a position within any emergency service in an administrative, support or operational response role.</p>
24.	<p>Agree in principle.</p> <p>Functions should be specified in legislation (not policy) to allow for clear links to increases in funding.</p>
25.	<p>Agree</p> <p>Needs close examination. The capacity to provide a non government entity (or any entity in fact) with a broad exemption from liability is dangerous and in a serious instance would certainly lead to being tested in a court and undermine the intent of the</p>

	exemption.
26.	<p>Any entity conducting emergency response operations must be recognised by the Fire Service Act and emergency management legislation, with clearly defined aims in that legislation. Current fire service legislation in tasmania recognises roles for government entities other than the Tasmania Fire Service and industry brigades.</p> <p>Future legislation for organisations and the powers of their constituent fire fighters should be specified in the act to avoid possible conflicts of motivations that may be self interested rather than community service oriented. For example, a private forest company that has an ability to exercise an exemption may prioritise protection of their own private assets over life or community infrastructure and have no liability to those that incur damage in the process.</p> <p>The current act acknowledges several government agencies (PWS, FT, Hydro, Industry brigades). New legislation may broaden this group with the construction of agreements through regulation between these agencies and others that are primarily firefighting government owned agencies. This would enable interstate firefighters or SES people to be granted emergency powers under the proposed act but with limitations.</p> <p>Regarding indemnity see comments in point 25.</p>
27.	Agree but with requirements for a standard of education and registration such as is used in approval of an accredited person in PART IV (a) of the current act.
28.	<p>The establishment of emergency risk management committees should be based on risk assessments for specific hazards and be specific to the risk identified.</p> <p>It does not seem reasonable to have the same committee assessing emergency risks for fire, flood or other hazards when the geographical risk will vary, mitigations will not be the same and require different resources and emergency response will be significantly different.</p> <p>Establishment of the risk committees could be achieved through regulation under the new act but the responsibilities of the committees should fall to the SFEM if the committee is not formed by the SFEC, thus providing a legislated imperative for the agency to perform the works required by the Tasmanian community.</p>
29.	<p>The UFUA agrees that the powers and functions of brigade chiefs and the chief officer should be examined to provide a more contemporary structure for the exercising of emergency powers.</p> <p>The Brigade structure is of importance to Tasmania communities and provides a strong sense of engagement for volunteers and employees at every level of the TFS. It is not unusual for many stakeholders to value the membership of their brigade to a high degree and feel accomplishment and self worth from that membership. To undermine this value through an arbitrary bureaucracy will result in undermining the capacity of emergency services to enjoy the commitment they now have from their members and the effective delivery of emergency services that the Tasmanian community expects.</p> <p>A brigade structure with regulated standards for service delivery and qualifications of members would be appropriate in any future structure. This would enable brigades the ability to nominate appropriate people from their community and membership base who can maintain the standards expected.</p>

	<p>The UFUA does not support legislation regulating brigade membership that will conflict with or override employment practices in the TFS, department and Tasmanian state service.</p> <p>The UFUA does not endorse any further development of industry brigades, particularly if those brigades operate outside of a specified industry location such as a high risk manufacturing plant that requires specific specialist training to mitigate a specified risk.</p>
30.	Agreed
31.	Agreed
32.	Agreed
33.	The fire service should be the regulator for all aspects of fire safety in built environments and be provided with powers for enforcement and compliance.
34.	Agreed
35.	This provision is in the current act but not utilized to its full potential and should be reviewed. All chains of command should incorporate knowledge skills and abilities through recognition of formal qualifications rather than a strict rank or brigade area system.
36.	<p>Not agreed.</p> <p>The current act could be amended to provide many of the proposed changes. The UFUA does not support the abolition of the TFS or SES.</p> <p>The UFUA does not support the concept of principles based legislation in the emergency management environment.</p> <p>The UFUA agrees that changes in the Fire Service Act and Emergency Management Act could allow for greater synergies in the administration and response capacity of both TFS and SES and a funded increase in responsibility.</p>
37.	Agreed in principle if a corresponding full cost funding model is a requirement for endorsement of any new duties.
38.	<p>The UFUA believes that these general principles can only be acceptable in the context of clear direction regarding the obligations and responsibilities of the organisation. In the absence of clear direction about obligation and responsibility in legislation, these principles could be taken significantly out of context.</p> <p>For example; 'Preserve human life' could be read as a legal obligation to perform the normal duties of Ambulance Tasmania or utilise SES monies for building flood mitigation works rather than emergency response to a flood.</p>
39.	The UFUA believes that legislation should clearly outline the powers, functions, obligations and responsibilities of the relevant emergency services. Any clarification for interaction between services should be contained in regulation or a code of practice.