

**MFB ENTERPRISE BARGAINING AGREEMENT NEGOTIATION FRAMEWORK**

Metropolitan Fire Brigade – Enterprise Bargaining Agreement Negotiation Framework

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Certification Statement

I hereby certify that this paper constitutes my own product, that where the language of others is set forth, quotation marks so indicate, and that appropriate credit is given where I have used the language, ideas, expressions, or writings of another.

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## Abstract

The applied research project problem was that the Metropolitan Fire Brigade's (MFB), Melbourne, Australia, current Enterprise Bargaining Agreement (EBA) does not provide for effective change and flexible allocation of resources to meet the future demands of the organisation. The purpose of this applied research paper was to identify a legislated negotiation framework for the organisation to meet future demand. Using descriptive research methodology, the following research questions were posed. (a) What is the current legislative negotiation framework? (b) What are the future demands of the MFB? (c) What options exist to ensure the MFB is able to meet future demand? (d) What are the current inhibitors to change implementation, resource allocation and flexibility? and (e) What are the issues to establishing an EBA for future demand?

Research began at the National Fire Academy's (NFA) online Learning Resource Centre (LRC) and continued in Australia at the MFB's Library and Resource Information Centre. Procedural content included examination through a comprehensive literature review, personal interviews, personal observations and interpretation of the current legislative framework, relevant Acts, regulations and government policies, procedure and guidelines. Procedures also included reviewing the strategic directions of the Integrated Emergency Services Framework (IESF), the possible outcomes, organisational impacts and recommendations of the 2009 Victorian Bushfire Royal Commission (VBRC) – Interim Report into the 7 February 2009, Victorian bushfires, as well as the legislated responsibilities under the MFB Act 1958 and the Fair Work Australia (FWA) Act 2009.

Results and the consequential discussion of the research concluded and supported the acknowledgement that a lack of a contemporary negotiation framework existed for the MFB to meet future demands. Discussion also included that mechanisms were available to both analyse the current workforce demographic, the current framework and investigate strategic options and solutions that met with the research purpose and questions.

Recommendations based on the research supports and expresses the notion of current inadequacies while providing the options, strategic intent and resources that would underpin a move towards a legislated negotiation framework and sustainable workforce capacity within a strategic realignment of organisational culture and change mechanisms. The recommendations assist in establishing outcomes while delivering and providing solutions to the stated research problem and purpose.

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## Introduction

The Metropolitan Fire Brigade (MFB) operates and exists within a large urban environment in the City of Melbourne, Victoria, Australia. One of Victoria's leading emergency response management and community safety organisations, the MFB protects more than three million people who live, work and visit metropolitan Melbourne daily. Serving an area of more than 1,200 square kilometers comprising Melbourne's central business district, inner and middle suburbs and a large portion of Port Phillip Bay, the MFB provides fire prevention, fire suppression and emergency response services. As well as protecting people, the MFB protects more than \$AUD200 billion of public and private assets and vital community infrastructure. Firefighters respond to a growing range of incidents from building structure fires to medical emergencies, road accidents to incidents involving hazardous materials. Increasingly, inter-agency response and interoperability is required, seeing the MFB work in partnership with other emergency services and community organisations. Additionally, the MFB takes part in the development, implementation and improvement of training delivery systems, emergency management plans for the state and providing ongoing advice to local, state and federal government departments and agencies.

In line with the tragic events of the Victorian bushfires of 2009 (173 lives lost) and the subsequent 2009 Victorian Bushfire Royal Commission (VBRC) – Interim Report into the 7 February 2009 Victorian bushfires, the Victorian government, amongst other initiatives has undertaken to strengthen the emergency services sector via the Integrated Emergency Services Framework (IESF) (2009) strategic document.

The document discusses five (5) strategic directions, one of which is “responsive and enabling systems to support service delivery” (p.40). Another IESF (2009) strategy that has the potential to impact on the MFB’s future demands and questions the adaptability and framework to meet those demands is that of a “modern and adaptive emergency service” (p.22). The IESF (2009) adds “this means adopting new and innovative measures that depart from traditional practice and involve new models of service delivery” (p.22). Both the IESF and the MFB’s stated outcome to provide well managed performance by developing strategies to enhance organisational performance (MFB Annual Plan, 2008-11) support the organisations statement of intent.

The MFB Business Plan (2009-2010) notes that:

The MFB will work collaboratively with its emergency services partners to ensure that the integrated emergency response strategy meets the needs of the greater Victorian community. This will require greater flexibility in resource application, a changed organizational culture and business process reforms. To this end, management’s emphasis will continue to be on supportive leadership development; devolved evidence-based decision-making; and increased responsibility and accountability (p.3).

In addition and to identify a consultative negotiation framework that provides for change, flexibility and future demands the MFB has looked to commence interim EBA negotiations with the employees representatives, the United Firefighters Union (UFU). Consistent with the framework and negotiation intent, the MFB has recognised the problem that its current EBA and legislated negotiation framework does not provide for effective change and flexible allocation of

resources to meet future demand. The purpose of this research is to identify a legislated negotiation framework to meet future demands.

Descriptive research methodology has been employed to answer the following questions.

(a) What is the current legislative negotiation framework? (b) What are the future demands of the MFB? (c) What options exist to ensure the MFB is able to meet future demand? (d) What are the current inhibitors to change implementation, resource allocation and flexibility? (e) What are the issues to establishing an EBA to meet future demand?

### Background and Significance

The Metropolitan Fire Brigades Board (MFBB) was established following a parliamentary review in December 1890 which saw the introduction and establishment of a full time firefighting service in Victoria. Prior to 1890, volunteer brigades operated in the suburbs, whilst insurance company financed brigades operated in the city. In 1997, Parliament reviewed the role of the MFBB and on reflection of a changing emergency environment legislated a new more indicative name of MFESB (Metropolitan Fire & Emergency Services Board). Corporately though, the organisation is recognised as the MFB. The MFESB operates as a statutory body, within the responsibility of the Minister for Police and Emergency Services and reports to the Department of Justice, to provide an emergency service throughout the Metropolitan Fire District (MFD). As such, the organisation is required to comply with all public sector agency policies, rules, legislative negotiation frameworks and government initiatives. The MFD comprises an area of approximately 1,200 square kilometres including the central business district of Melbourne, the second largest city in Australia and a major focus of activity on the south-eastern seaboard.

Service delivery in the MFB is achieved through 47 strategically located fire stations which are staffed by approximately 1,800 professional firefighters and supported by 400 non-uniformed corporate staff. The annual operating budget is approximately \$AUD330 million. A range of suppression and prevention services are delivered by the MFB. From a response perspective the organisation is chartered with the responsibility for fire suppression, hazardous materials spills, decontamination, road accident rescue, rescue from heights, urban search and rescue including trench collapse and emergency medical response, amongst other tasks. The MFB responds to approximately 35,000 emergencies annually (MFESB Annual Report, 2007-08).

Despite this diversity in its service delivery, the MFB has a government, community and workforce expectation to not only deliver an appropriate service but to do so at an acceptable cost in terms of efficiency and effectiveness. Flexibility in terms of response and resource allocation are such approaches in the quest to provide an efficiency of service. The IESF (2009) notes that “maintaining and further developing a well supported emergency services workforce and sustainable capacity is a key priority” (p.23). Increasing flexibility in terms of resourcing and efficiency standards is indeed a problem that the organisation needs to address.

In line with the International Labour Organisation (ILO) and FWA doctrines, this requirement includes EBA negotiations. The ILO At a Glance (2007) notes that “its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work related issues” (p.1).

In addition, the ILO At a Glance (2007) finds that:

This “social dialogue” can mean negotiation, consultation or simply an exchange of views between representatives of employers, workers and governments. It may consist of relations between labour and management, with or without direct government involvement. Social dialogue is a flexible tool that enables governments and employers’ and workers’ organisations to manage change and achieve economic and social goals (p.6).

The MFB has committed time and resources in an attempt to resolve the complex issues surrounding the development of its workforce, including effective use of community resources over many years. Options for solutions have altered due to changing factors, often outside of the MFB's control. Significant pressures have come from community expectations and legislative requirements to adapt to the ever changing environment we live in. In a relatively short time service has expanded to include: Urban Search and Rescue (USAR), Emergency Medical Response (EMR), Chemical Biological and Radiological (CBR) capability, High Angle Rescue (HART) and Marine Response to its suite of required competencies and skills. Also, there is a need to participate, lead and influence an enhanced emergency management sector. This includes building a capacity to ensure incident management and its related doctrines and procedures form part of every day response and future emergency management legislative frameworks.

A significant change to all fire services has occurred since 9/11, as well as the natural and environmental disasters like the “Black Saturday” wildfires of February 7, 2009. There are expectations from government and the community that resource flexibility will be required with

the future anticipation of emerging issues. To satisfy current legislative requirements and in anticipation of emerging needs, the MFB's current resourcing model will need to be further developed to meet these expectations.

Benefits to the MFB of addressing both the negotiation framework and issues around flexibility of resources include:

- Increased consultation with workforce representatives.
- Enhanced trust between employee and employee representatives.
- Increased productivity.
- Increased community confidence and resilience.
- Greater flexibility to meet current and emerging operational needs.
- Enhance emergency response capability.
- Greater financial accountability and fiscal efficiency.
- Maintenance of existing entitlements and options to increase standards and entitlements.
- Removal of constricting consultative mechanisms that inhibit the change process.
- Increased firefighter safety.

This research addresses the MFB's organisational goal to engaged stakeholders and to:

- Influence and advocate for changes to policy and legislation to improve community safety, as well as
- Form effective working relationships based on good communication and mutual respect for the specialist skills each possesses (MFB Business Plan, 2009-10).

The research is related to the factors that encourage and influence the executive research component of the National Fire Academy's (NFA) *Executive Leadership* (EL) course required by the Executive Fire Officer Program (EFOP). The research also recognises the ARP goal to give Executive Fire Officer's (EFO's) opportunities to use critical thinking skills to identify problems and develop new information and strategies to improve the efficiency and effectiveness of both personnel and organisations as a whole. Additionally, the research relates to and promotes the United States Fire Administration (USFA) operational directive and objective to respond appropriately in a timely manner to emerging issues such as EBA negotiations. The descriptive research approach recognises the EFO's legitimate authority to influence and support executive development by leading effectively and efficiently within a dynamic and complex organisation and by facilitating the development of teams and the application of research findings (National Fire Academy, 2006, p.0-3). Also, it is the author's personal vision to contribute to the organisation's commitment, capability and capacity by providing awareness and advocacy for personnel to embrace change, become more informed, competent and motivated.

#### Literature Review

The literature review focused on specific research relating to the research questions posed. The review also attempts to synthesize the research questions to reflect and achieve the papers purpose of identifying an enterprise bargaining negotiation framework for the MFB to meet future demand. Literature was reviewed at the NFA's on-line LRC catalogue, the MFB Library Resource & Information Centre and interlibrary loan where appropriate. Literature was also reviewed at the Moonee Valley City Library, Melbourne, Australia.

The MFB's current legislative negotiation framework is called up under the FWA Act (2009). The Act requires negotiation of wages and conditions by enterprise bargaining to provide for enterprise agreements between employers and employees (the collective) to be reached. The MFB/UFU workplace agreement negotiation process (Appendix A) conceptualises the process. The Australian Concise Oxford dictionary (2004) defines enterprise bargaining as "negotiations on wages and conditions conducted between employers and employees (or their representatives) of an organisation, enterprise, or workplace, with any agreement reached being confined to that organisation etc. alone, with no flow-on to other enterprises" (p.463).

Collective bargaining regulates the terms under which employers hire employees... collective bargaining acts as a voice mechanism where employers, employees and representatives can express their objectives surrounding the nature of work. (A Hogan, personal communication, January 21, 2011). Here, the FWA Act (2009) states, "the object of enterprise agreements are to provide a simple, flexible and fair framework that enables collective bargaining in good faith, particularly at the enterprise level for enterprise agreements that deliver productivity benefits" (p.167). The FWA Act (2009) further notes "that enterprise agreements must include a flexibility term" (p.197).

In relation to enterprise agreements between the MFB and its employees, the UFU is the elected employee representative in the majority of cases.

Edwards, (2005), states that:

The rights of workers to organise and bargain collectively with employers has a long and turbulent history ... The fire and rescue service is no exception: the career fire service has one of the highest percentage of union membership in the

public sector. A successful fire service personnel manager must understand how unions are formed, how they operate and the laws and regulations that govern them (p.212).

Wailes & Lansbury, (n.d.). note:

Collective agreements... the effect of legislative change has been to place increased emphasis on workplace agreements as the primary form of regulating wages and conditions within individual enterprises. This has mainly taken the form of enterprise agreements concluded between unions representing the workers in an enterprise and individual employers (sometimes with the assistance of employer association negotiators or private sector consultants) (p.1).

The impact of this legislative change has a direct correlation with the current negotiation framework imposed on both the MFB and UFU by the Victorian Government, Victorian Public Sector Industrial Relations Policy Manual (VPSPM) 2006. As stated in the VPSPM (2006), “the government is committed to workplace relations based on consultation and cooperation. It supports a system that provides a fair approach to bargaining as well as a safety net based on fair minimum employment conditions” (p.4).

In addition, the VPSPM (2006) notes that:

The key principles underpinning the government’s approach to industrial relations are as follows:

- The promotion of workplace relations based on consultation and cooperation between employers, employees and their unions;

- The freedom for employees to join or not join a union and to be properly represented in the workplace;
- The support and recognition of the role of the Australian Industrial Relations Commission as the primary independent umpire;
- The right to a hearing by an independent umpire if employees are unfairly dismissed;
- The promotion of collective bargaining with employees and their union representative s rather than individual bargaining;
- The setting of wages and conditions through comprehensive collective agreements;
- Non-use of Australian Workplace Agreements;
- Non-executive employees to be covered by collective agreements;
- Provision of fair and comprehensive minimum employment conditions in awards and agreements;
- The preservation of pre-WorkChoices awards as the effective safety net for all public sector employees; and
- The support for policies that enable employees to balance work and life, including the Family Provisions Standard (p.4)

The main caveat to the framework is the legitimate requirement to bargain in good faith and to consult on major change initiatives. “Bargaining in good faith helps agreement making by encouraging parties to complete negotiations on key issues” ([www.fwa.gov.au](http://www.fwa.gov.au))

It is a new requirement under the FWA Act (2009) that bargaining representatives for a proposed enterprise agreement must meet the good faith bargaining requirements. Good faith bargaining encourages parties to communicate openly and to focus their negotiations on key issues.

Additionally, the FWA Act (2009) notes:

- (1) The following are the good faith bargaining requirements that a bargaining representative for a proposed Enterprise agreement must meet:
  - (a) attending and participating in meetings at reasonable times
  - (b) disclosing relevant information (other than confidential or commercially sensitive information) in a timely manner
  - (c) responding to proposals made by other bargaining representatives for the agreement in a timely manner.
  - (d) giving genuine consideration to the proposals of other bargaining representatives and providing reasons for responses to those proposals
  - (e) refraining from capricious or unfair conduct that undermines freedom of association or collective bargaining; and
  - (f) recognising and bargaining with the other bargaining representatives for the agreement (p.217).

In addition and by means of probable future demand, impact and consideration, the Australian Industry Group (AIG), (2010) notes:

The bargaining process is proving to be challenging with:

- Unions attempting to stretch the boundaries of what can be lawfully included in enterprise agreements;
- Union claims for restrictive provisions which would impede competitiveness and efficiency, for example restrictions on the engagement of contractors and labour hire, rather than provisions which would improve productivity;
- The refusal by unions to allow individual employees and employers; and
- Rising wage expectations of employees and unions. (p.4).

To meet future demand, the MFB faces enormous challenges. As noted in the IESF (2009), “existing legislation must align with changing emergency management demands and practice” (p.40). In terms of workforce demographics and the ability of the MFB’s staff to embrace and meet future demand, a negotiated agreement needs to include mechanisms for staff to actively participate as well as provide for the ever increasing onus and entitlement of family friendly provisions, as well as exiting strategies (and transition to retirement). The assumption that such flexibility is required due to the aging workforce and separations is more likely to hold ground and persuade negotiators.

Robinson (2009), adds support to this assumption by stating, “Thus it can be identified that age is a critical factor in determining retirement and given the current superannuation incentives, firefighters are likely to retire at age 58 as long as their length of service is equal or greater to 30 years” (p.19). In support, the IESF (2009) adds that “Australia’s population is ageing and so is the majority of the emergency services workforce...and that the average age of MFB fire-fighters is currently 46, with the potential for almost 20 percent of the workforce to retire within the next 3 to 5 years” (p.37).

Carter (2009) also notes:

A key workforce challenge currently facing the MFB is predominantly being driven by the ageing workforce. Given the current Emergency Services Superannuation Scheme (ESSS) superannuation entitlements (with benefits maximised following 30 years service and 58 years of age), length of service and age are key indicators of likely retirement (p.1) (Appendix B).

This phenomenon affects and highlights the MFB's current capacity and risk in terms of human resource allocation, numbers of employees and the requirement to include retirement transition, job share and family friendly entitlements in any future EBA negotiations. This requirement is seen as not only a legislative, but a moral and ethical determination in fair and reasonable negotiations. This may not have been anticipated in the past, but is clearly now an imperative that should be considered and addressed in future EBA negotiations.

To ensure future demand is met, the UFU & MFB must engage in a bipartism approach to EBA negotiations under a framework that is both legally binding and 'win win' for both parties. The outcome needs to ensure demand is reached in terms of response, government and community accountability as well as being both human and asset resource flexible. Consultative mechanism, based on meaningful negotiations in good faith and a willingness for the parties to accept and embrace change need to also be incorporated in such negotiations. As indicated, recommendations of the VBRC (2009) provide for both opportunities and legal compliance. KPMG (2010) notes, "the VBRC provides an opportunity for change ... the opportunity to review the organisation's effectiveness... that will continue to build a collaborative, constructive and responsive MFESB" (p.11).

To meet demand, the parties must embrace any recommendations and implement them through the bargaining and negotiation process.

As stated in the MFB/UFU Operational Staff Agreement (2010):

The MFB and UFU recognise the importance of the 2009 VBRC Report ... and are committed to reviewing the recommendations in a timely manner. The MFESB and UFU agree to bargain collectively in relation to any matter that arises out of the VBRC report which seeks to change (p.16).

In support the VBRC (2009) notes:

In the Commission's view, a disaster of the scale of 7 February will always put pressure on organisational structures and processes ... individually, the problems identified might be resolved by changing working arrangements ... the problems ... led the Commission to contemplate organisational change (p.18).

Further to identifying options to meet future demand the notion of strategic organisational realignment needs consideration.

KPMG (2010) finds that:

Realignment will ensure the MFB is strategically positioned to proactively respond to any potential changes ... which may arise as a result of the Royal Commission ... and to maximise its ability to integrate and operate with Victoria's Emergency Management Arrangements (p.10).

The KPMG (2010) report also notes "that such integration of strategic direction will continue the organisation's commitment to building a more collaborative, communicative and consultative environment', including with employee representatives" (p.12).

This option clearly delineates EBA negotiations and the framework needed to move into the future and as stated in the report, “reduce barriers and promote innovation and creativity” (p.14). In support of the questions posed, the Fire Brigade Union (FBU) (2010) notes, that options such as “genuine steps to assess the impact that changes to staffing arrangements will have on worklife balance and family friendly policies, are recommended in any fire service review” (p.12). The FBU (2010) adds, “fire and rescue authorities should satisfy themselves that the proposal has undergone appropriate consultation with informed stakeholders” (p.11). Finally and in support of pursuing options for change to meet demand the FBU (2010) notes, “the FBU will: work with stakeholders to encourage change in the fire and rescue service that leads to measured improvement (p.14).

The legislative framework in regards to consultation is encapsulated in the VPSPM (2006), which states:

Consultation is required where departments and agencies (employers) decide to restructure the workplace, introduce new technology or change existing work practices that affect employees. Employers are required to notify the employees and their unions of the proposed changes as soon as practicable from the date of the decision. The likely effects on the employees’ responsibilities and working conditions are to be advised. More generally, employers give prompt consideration to matters raised, in order to ensure that change initiatives are implemented with the involvement of all relevant parties, in a spirit of full consultation (p.29).

Supporting the problem and in terms of the pursuit of effective change, Hocking (2010

finds that:

The MFB has proposed a standard and contemporary consultation clause, that is more user friendly, and is likely to cause less industrial disputation. The clause is consistent with the award modernisation process adopted by Fair Work Australia, which is supported by the Australian Council of Trade Unions (ACTU) and has many features similar to other consultation clauses supported by the UFU in other fire jurisdictions. The current consultation process is unworkable and is bogged down in constant industrial disputation. The broad definition of change in the current agreement has seen all matters for change – including even very minor issues..... go through ludicrous levels of consultation (p.3).

This consultative mechanism could be seen as an inhibitor to change implementation and resource flexibility, due to its legislative requirement.

In regards to the problem posed, Bucci (2010) notes that:

The EBA currently specifies if the number of fire-fighters on shift (at work) falls below 269, off duty fire-fighters must be recalled to work to make up the minimum number of 269 fire-fighters. Due to absenteeism levels, both planned and unplanned, maintaining this minimum level generally requires recalling fire-fighters back to work regardless of demand for services. This arrangement is arbitrary and inflexible, as this minimum number is not based on an assessment of operational needs or capacity. The EBA also includes a directive which outlines the numbers of fire-fighters from each rank required per shift and location, again

limiting where resources can be directed according to need. For the purpose of increased fire-fighter safety, the directive also states there should be seven fire-fighters on the fireground for a structure fire incident, however again this often proves unachievable due to absenteeism rates and inflexibility in allocating resources (p.1) (Appendix C).

Here though, the essence of meaningful negotiation is brought into question because of the poor relationship that exists between the MFB and the UFU, in particular the area of agreed change management and the consequential lack of consultation for change to occur. Personal observation, experience and the authors role in representing the MFB in EBA negotiations have viewed this relationship and the many disputes that have resulted.

Hogan (2010) notes:

It is an organisation engaged in and culturally defined by constant conflict between management and the major representative union. The conflict goes to the core of control of all facets of the organisation. Organisational history shows that these conflicts are often long running and have always been present (p.3).

Hogan (2010) adds, in terms of an organisational perspective and past inhibitors on effectiveness that:

The most often quoted source of conflict is about perceived lack of consultation prior to the implementation of organisational change. In reality these disputes arise whether consultation has occurred or not, whether the change is intended or unintended or even if the change is an actual in reality or just some baseless fear about perceived motives (p.3).

Hocking (2010) adds:

The UFU has also taken a significant number of change issues through a grievance process. The UFU takes the position that once it submits a grievance in regard to a change proposal then that means the MFB cannot implement the change. Whilst the MFB naturally disputes this interpretation the result is that the consultation process has effectively become a means of delaying change...(p.3).

The challenge for the MFB is for negotiations to be finalised and to result in fair wage increases for employees, while also providing benefits for the MFB (MFESB Annual Report, 2009/10). The human resource challenge of maintaining workforce capability via a contemporary EBA presents its own set of organisational challenges, probabilities and inhibitors to change.

As found in the IESF (2009), challenges faced include:

- “Agencies are competing for resources ...
- The increasing age profiles of workers challenges long term sustainability.
- The current recruitment and retention patterns are changing, driven by different “life stage” and “generational” expectations” ... (p.36)

The option to form strong relationships between both the employer (MFB) and the employee representative (UFU) is indeed an issue to establishing trust, good faith negotiations and an agreement that meets both parties needs and future demand. The Collins Australian Compact dictionary (2002) defines relationship as “the dealings ... that exist between people or groups” (p.770).

In this context, the groups, being the MFB and UFU are required to deal for employees, “the people”. Shaw (2009) notes, “relationships are funny things ... academics have studied relationships and the problems that certain types of relationship create. The management/union relationship is one that has been extensively examined” (p.13). Shaw (2009) adds, which by example supports the issue in question, that “strong union management relations allow departments to tackle other initiatives” (p.64). Initiatives, such as an EBA that promotes change, flexibility and fair remuneration can be made possible with negotiations based on sound relationships.

As a Statutory Authority, the MFB has the powers under both the MFB Act (1958) and the Emergency Management Act (1986) to protect the community it serves. A Statutory Authority is an Australian body which has the right to enact legislation for specific areas of the law ([www.en.wikipedia.org/wiki/statutory\\_authority](http://www.en.wikipedia.org/wiki/statutory_authority)). The MFB Act (1958) notes, “the main purpose of this Act is to provide for fire safety, fire suppression and fire prevention services and emergency response services in the MFD” (p.1). In support, the Emergency Management (EM) Act (1986) states, “the objectives of this Act are to ensure ... components of emergency management are organised within a structure that facilitates planning, preparedness, operational coordination and community participation” (p.5). These Acts provide the MFB with the statutory legislation and protection to discharge its power and legislative responsibilities. In terms of further exploration of the issues to establishing an EBA to meet future needs, the author notes that a dichotomy exists in relation to the execution of both the jurisdictional and application component of the MFB and FWA Acts.

As noted, the MFB has clear powers under the auspices of the MFB Act (1958) & EM Act (1986). However, in regard to the application of the FWA Act (2009), powers are somewhat limited and are subject to compliance, enforcement and approval by Government, Ministers and the FWA Ombudsman. The FWA Act (2009) notes, “The Fair Work Ombudsman has the following functions to promote:

- (a) harmonious, productive and cooperative workplace relations;
- (b) to monitor compliance ...” (p.545)

As well, the FWA Act (2009) has the power to make workplace determinations on EBA’s.

The Act notes:

In certain circumstances, FWA may make industrial action related workplace d determinations or bargaining related workplace determinations ...

The factors that FWA must take into account in deciding which terms to include in a workplace determination include the following:

- the merits of the case
- the interests of the employers and employees
- how productivity might be improved in the enterprise or enterprises concerned
- the public interest
- the conduct of the bargaining representatives (p.259)

Additionally, the FWA Act (2009) finds, “FWA must make a bargaining related workplace determination if: the bargaining representatives for the agreement have not settled all matters that were an issue during bargaining for the agreement” (p.252).

In this context and under these circumstances, relationships can be tested especially in terms of agreements being hard to achieve due to one party or the other pursuing major change. As distinct to the powers provided to the MFB under the MFB Act (1958) & EM Act (1986) to control its environment and legislative accountability i.e. response, under the FWA Act 2009 these accountabilities, in terms of human resource, and its application are at the mercy of external forces and influence outside its control. As much as the MFB has a delegated power to negotiate under the FWA Act (2009), this power, can, under the same instrument, be compromised by ministerial intervention, determinations and external relationship ... all in a bid to either not reach agreement or have the negotiations and agreement contents undermined (M. Walker, personal communication, January 14, 2011).

Political support too is a notion that identifies and predetermines the making of a contemporary EBA. In regards to political support, the UFU seems to find favour with the left side of politics, particularly when industrial conflicts arise (A. Hogan, personal communication, January 21, 2011). This disparity between legislative instruments and associated alliances is indeed an issue to establishing an EBA and one which requires urgent attention to address the posed research problem.

The literature review in relation to identifying a negotiation framework to meet future demand has raised many significant and important factors that the MFB needs to consider in its endeavour to be a preminent, contemporary emergency service and an organisation that supports its employees in terms of fair and reasonable terms and conditions of employment.

## Procedures

## Definition of Terms:

ACO	Assistant Chief Officer
ACTU	Australian Council of Trade Unions
AIG	Australian Industry Group
ARP	Applied Research Project
AUD	Australian Dollar
CBR	Chemical, Biological & Radiological
CEO	Chief Executive Officer
EBA	Enterprise Bargaining Agreement
EBIC	Enterprise Bargaining Implementation Committee
ED	Executive Development
EFO	Executive Fire Officer
EFOP	Executive Fire Officer Program
EMR	Emergency Medical Response
EMT	Executive Management Team
EM	Emergency Management
ESO	Emergency Services Organisation
ESSS	Emergency Services Superannuation Scheme
FWA	Fair Work Australia
HART	High Angle Rescue Team Techniques

HR	Human Resources
IESF	Integrated Emergency Services Framework
ILO	International Labour Organisation
IMT	Incident Management Team
IR	Industrial Relations
LRC	Learning Resource Centre
MFB	Metropolitan Fire Brigade
MFBB	Metropolitan Fire Brigades Board
MFD	Metropolitan Fire District
MFESB	Metropolitan Fire & Emergency Services Board
NFA	National Fire Academy
NFPA	National Fire Protection Authority
OLT	Organisational Leadership Team
PPRR	Planning, Prevention, Response, Recovery
UFU	United Firefighters' Union
USAR	Urban Search & Rescue
USFA	United States Fire Administration
VBRC	Victorian Bushfire Royal Commission
VPSPM	Victoria Public Sector Policy Manual
WR	Workplace Relations

### Literature Review

Initial research for this project began at the NFA's LRC, on-line catalogue Emmitsburg, Maryland, USA. Subsequent research was conducted at the MFB Library and Information Resource Centre, Burnley, Victoria, Australia as well as the Moonee Valley City Library, Niddrie, Victoria, Australia. On-line catalogues and employee assistance was used to search for relevant information pertaining to contemporary operational training. References included books, reports, government publications, journals, magazines, websites and EFO papers.

### Research Methodology

In addition to the literature review, interviews, personal participation and formal MFB management representation and appointment to EBA negotiations as well as personal observations were conducted to form the basis of the ARP's procedural content and to achieve the research purpose. The desired outcome of this research was to identify a legislated negotiation framework to meet future organisational demands. Research of the literature, both nationally and internationally assisted in exploring and identifying the various means and complexities of EBA negotiations, with a view of identifying a framework suitable for the MFB, the community of Melbourne, Victoria, government and the employee representative body, the UFU. The research methodology adopted is that of descriptive research. This method of research has assisted in reporting and determining the present and current status of EBA negotiations, their effectiveness, content and future organisational needs and demands.

### Personal Interviews

In line with the posed research questions and to identify an EBA negotiations framework, demands and needs, both current and future, Mr Michael Walker, MFB Assistant Chief Officer

(ACO) of Operations Improvement was interviewed in relation to his experience and involvement in recent EBA negotiations. Michael is an EFOP graduate and senior operational executive manager, with over 30 year's experience.

The face to face interview took place on 14 January, 2011 in Michael's office at the MFB's Eastern Hill headquarters, 456 Albert Street, East Melbourne, Victoria, Australia. In acknowledging both the problem and purpose statements of the proposed research, as well as the research questions put forward, the interview attempted to encapsulate the strategic view of the MFB in terms of EBA negotiations, both past and present, negotiations history, and the challenges faced as well as Michael's own responses and experience as to EBA negotiations and the current framework. Michael was appointed by the MFB Chief Executive Officer (CEO) as a senior operational management representative in the EBA negotiations, primarily responsible for developing and announcing a proposed flexible framework in terms of resource allocation and flexible crewing options.

As well, an interview was conducted with MFB Industrial Relations (IR) Manager, Mr. Aaron Hogan. The face to face interview took place on 21 January 2011 in Aaron's office at 456 Albert Street, East Melbourne, Victoria, Australia. Aaron's current role is Employee and Industrial Relations Manager within the Capacity Development Directorate. The role requires the implementation of an EBA communication strategy to the workforce as well as the development and implementation of a change program to embrace a culture of flexibility, meaningful consultation and alternative allocation of resources. Also, Aaron provides an advisory role in terms of EBA interpretation, agreement making and advice to government as to the status of the MFB's industrial landscape.

Aaron's portfolio is directly linked to the research statement and purpose and indicates the organisations acknowledgement of the fragile industrial relations environment it finds itself in and its commitment to both resourcing and finding solutions in identifying an appropriate framework for its workforce in terms of a fair and equitable EBA approved by government.

### Personal Observations

In assuming the role of operational and management representative in EBA negotiations, personal observations were conducted and opinions expressed as to the current negotiations framework and future organisational demand. These observations were based on the research questions posed to achieve the project purpose. A number of specific processes were used to address each research question. The processes were chosen in line with the descriptive research methodology to achieve the stated ARP purpose. These processes included comprehensive literature review, peer and stakeholder interviews, consultation and personal experience based on formal appointment to and involvement in negotiations and personal observations. The research question processes were as follows:-

*Research Question A: What is the current legislative negotiation framework?*

*Comprehensive literature review, peer interviews, professional experience and personal observations.*

*Research Question B: What are the future demands of the MFB? Comprehensive*

*literature review, peer interviews, professional experience and personal observations.*

*Research Question C: What options exist to ensure the MFB is able to meet future*

*demand? Comprehensive literature review, peer interviews, professional experience, personal observation and judgement.*

*Research Question D: What are the current inhibitors to change implementation, resource allocation and flexibility? Comprehensive literature review, peer interviews, professional experience, personal observation and judgement.*

*Research Question E: What are the issues to establishing and EBA for future demands? Comprehensive literature review, peer interviews, professional experience, personal observation and judgement.*

#### Assumptions and Limitations

The limitations in regard to this ARP were that although there was a comprehensive review undertaken of the literature available, research was primarily focused on the FWA Act (2009) and the associated legislative requirements imposed on the parties involved. Also, the impending organisational realignment project provides for limitations in terms of actual flexibility and the potential reduction in the number of employees. This limitation however, provided for an option which was achievable to meet the desired outcome and stated purpose. Outcomes of the VBRC need also to be considered in future negotiations and organisational structures.

In terms of limitations though, these requirements, and the framework for negotiations can be seen as inhibitors to agreements and EBA negotiations. (A. Hogan, personal communications, January 21, 2011). The FWA Act (2009) notes in support, “the National Employment Standards are minimum standards that apply to the employment of national system employees ... the standards also underpin what can be included in modern awards and in enterprise agreements” (p.80).

This clearly indicates the limits to achieving an EBA for future demand. The assumption too, that flexible crewing and human resource allocation according to risk is the panacea to the problem, although vital in future planning, it may not be the vehicle alone to base and achieve agreements. In reality, there needs to be a real 'will' on both sides for agreements to be reached. Once claims are lodged, the desire to 'give ground' is generally artificial. To assume otherwise, can be politically naïve and clearly a limitation to reaching agreement.

### Results

The overall results and the procedural outcomes of the research questions support the notion that the current legislative negotiation framework will not meet future demand, or provide for effective change. The problem is hence validated and the research purpose vindicated. The complexities of negotiations in a delicate political environment, coupled with both human resource and governance intricacies, as well as the organisation's employee representatives moral responsibility, indeed highlights the need to adopt a framework that supports organisational flexibility in regards to resource allocation, change and EBA negotiations.

#### Research Question A Results

The first question was to determine the current legislative negotiation framework. As noted, the current framework is called up in the FWA Act (2009). The inclusion of the good faith bargaining clause is clear intent to foster and legitimise consultation, agreement and procedures in terms of negotiations and resolving disputes. This is indeed a shift from traditional Australian industrial relations frameworks. In his interview, Industrial Relations Manager, Aaron Hogan notes that:

The Australian Industrial Relations architecture, in contrast to nearly 100 years of conciliation and arbitration, has undergone significant ideological change in the recent decades.

Acts that have formed part of the historical framework, include:-

1988 – Industrial Relations Act

1996 – Workplace Relations (WR) Act

2006 – WorkChoices legislation (WR Act amendment)

2009 – Fair Work Act

Significantly the current FWA Act (2009) marks a political shift from the traditional Labor party values and retains many provisions introduced through the Workplace (WR) Relations Act (1996).

Aaron further adds that, in effect this has seen the devolution of IR responsibilities from the state, to the industry and to the employer level with particular regard to bargaining, dispute resolution and consultation. In respect of the MFB, the legislative framework is unhelpful. Firstly the MFB is established through an Act of State parliament and the MFB Act (1958) contains employment related content. The discipline procedures for example are outdated and do not represent contemporary Human Resources (HR) practice. At a federal level the FWA Act (2009) has emboldened unions generally. The unique aspects of bargaining in good faith have been problematic and put the focus on due process rather than fair outcomes. A rather controversial view indeed!

ACO Walker also notes that current frameworks differ from the private to the public sector. Private sector organisations, unlike Emergency Services Organisations (ESO's) have the principle of bargaining centered around profit and economies of scale. ESO's however, have to base negotiations, in the main, on productively efficiencies (often leading to crewing or manpower reduction) which results in disputation or the ever intangible work value cases. Here, as expressed by Michael, negotiations are clouded by the complexity of work value rather than wage increase versus productivity. Also, as a public sector agency, the MFB is bound by government wages policy which is predetermined and dependent on budgetary funding principles and expenditure review guidelines.

#### Research Question B Results

The second research question was to annunciate the future demands of the MFB. The complexity of the emergency services environment places a high demand and scrutiny on ESO's such as the MFB. As noted by ACO Walker, Victorian fire services have come under unprecedented scrutiny due to the VBRC (2009). He adds that whilst final recommendations are imminent, submissions and evidence indicates the possibility of the MFB expanding its role. This increased demand will require additional resources and drain those existing. Demands that cascade and have a flow on effect could include increased fire management planning, boundary expansion, integration of planning, preparedness, response and recovery (PPRR) and multi agency co-ordination all requiring consultation and negotiation. Such demand will also scrutinise the MFB's resources in terms of flexibility to meet any changes. EBA negotiations, included in a contemporary framework are one possible vehicle to embrace such a change that resource allocation and flexible deployment brings to the organisation and indeed the sector.

Industrial Relations Manager Hogan, too, finds support for this requirement so as the MFB can be placed to both anticipate and be prepared for changes and ultimate demands.

In his interview, Aaron found future demands to be, but not limited to:

- Responsive and flexible in the way MFB delivers the service
- Community expectations/public scrutiny
- Cost
- Environment
- Demographics/ageing workforce/job for life
- Emerging technology
- Changing nature of incident response/occurrence/type of fire

Personal observations and formal representation in EBA negotiations have also identified the need to pursue flexibility in terms of employee entitlements, to meet not only deployment and crewing demands but legislative requirements in terms of employee terms and conditions.

In support, the FWA Act (2009) notes, “National Employment Standards also underpin what can be included in modern awards and enterprise agreements” (p.76). Also, the Act notes “employees may request change in working arrangements ... for flexible working arrangements” (p.81). Also, family friendly and flexibility clauses can be incorporated in EBA’s to meet future resource demands (Appendix D).

A different and alternative view to future demands is offered by ACO Walker in terms of the fiscal policy and the political election cycle. In his interview, Michael notes that the MFB needs to have and enjoy a level of independence to negotiate wage outcomes that benefit employees. Here, government wages policy dictates what can be offered and the MFB is bound

by government wages policy. Michael adds, that the UFU, through its political influence and affiliation can and often ‘does better’ and convinces government to go beyond its wages policy.

Personal experience has seen this achieved through, not the traditional work value cases but rather via the MFBB being directed to relent on its policy and negotiate an outcome in the interest of the UFU. Effectively ‘roll over’! The UFU too, plays its part by often deferring negotiations and pushing them into the political election cycle, thus pressuring the government to ‘deal’ so as it can improve its chances of re-election. In this context, the FWA Act (2009) notes too that a person “has a workplace right” (p.314) and is afforded rights and responsibilities to “adverse action, protection and industrial action (p.320). Michael notes that the challenge is for the MFB to manage this demand and the consequent employee expectation, driven by the UFU.

#### Research Question C Results

The third research question explores the options that exist to ensure the MFB is able to meet future demand. Apart from any general characteristics of both the fire service and the framework that determines the relationship between parties, it is the relationship itself that has the opportunity to ensure any future demand is met via a contemporary framework, consultation is the option whereby agreed outcomes can be achieved to ensure the MFB is adequately poised to embrace change and meet the demands of government, community and its workforce.

As detailed by Aaron Hogan, and supported by the author in negotiations, the investment logic mapping process underpins the EBA framework by providing a sequential flow of actions, treatments, benefits, solutions and indicators as well as providing the appropriate governance in terms of credibility and future directions and demand (Appendix E).

In providing an option, personal experience and involvement in EBA negotiations has seen the proposal of a standard and contemporary consultation clause that is more user friendly and is likely to cause less industrial disputation. The clause is consistent with the award modernisation process adopted by FWA, which is supported by the ACTU and has many features similar to other consultation clauses supported by the UFU in other fire jurisdictions.

In terms of its structure, ACO Walker notes that MFB needs to modernise its workforce and become more flexible to government and community demands. Michael adds that it is flexibility, not a reduction in personnel and response that will provide for an option that is palatable and agreeable to the employee representatives. Interestingly, in the interview Michael also acknowledges and provides an alternative view that might be tabled in negotiations centred around flexibility. Michael noted that by removing one employee may reduce the workforce by 5% but it means reducing the crew of the appliance by 20% for one shift. This means that for one shift, safe systems of work cannot be implemented without adversely affecting operational effectiveness. In other words, this would compromise public and firefighter safety.

This counter proposal indicates Michael's experience and understanding of the framework and the possible options that could arise through biased and misunderstood negotiations. ACO Walker further adds that the option of flexibility in resourcing to meet future demand could be based on risk profiles rather than the conventional model of standard geographic locations. As well, as stated by Michael, such a flexible workforce can provide examples of efficiency gains which could ultimately create productivity increases which in turn can be negotiated as wages and conditions increases for the workforce.

Research Question D Results

The fourth research question examines the current inhibitors that exist to change implementation, resource allocation and flexibility. IR Manager Hogan noted in his interview that the current consultation process is unworkable and is bogged down in constant industrial disputation. The broad definition of change in the current agreement has seen all matters for change including even very minor issues taken through the lengthy Enterprise Bargaining Implementation Committee (EBIC) process. This has seen a significant number of minor change proposals go through ludicrous levels of consultation. In recent times the UFU have insisted that the following matters all go through a lengthy EBIC process:

- a trial of liquid soap;
- rain water tanks;
- dishwashers at stations;
- additional computers;
- a memorial to fallen firefighters;
- electronic pay slips;
- surveys on the mode of travel to work;
- diversity training for recruit firefighters;
- introduction of the new statewide emergency management systems as a consequence of the black Saturday fires;
- introduction of simple electronic tag systems; and
- Interpreter services.

Aaron further added that in the ten years that EBIC has operated, the UFU have vigorously expressed their position on how change operates in the MFB. The UFU holds the view that change cannot occur until there is agreement by the UFU. This is a position that cannot be supported as it undermines management's operational control of the MFB. Personal observations and participation in EBIC has seen the UFU take a significant number of change issues through a grievance process. The UFU takes the position that once it submits a grievance in regard to a change proposal then that means the MFB cannot implement the change. Whilst the MFB naturally disputes this interpretation, the result is that the consultation process has effectively become a means of delaying and inhibiting the change implementation process for months or even years.

Aaron, in his role as Industrial Relations Officer and MFB management representative in EBIC, grievance procedures and EBA negotiations sites other inhibiting factors to the notion of change and flexible resource allocation as:

- Union ideology and control
- Cultism/brainwashing
- Past history
- Employee outlook/engagement
- Cultural factors
- Lack of leadership/change sponsors
- Political environment and intervention
- FWA bias
- Legislative framework

- EBA/award framework
- Lack of consultation
- Dispute resolution procedures
- Management by committee
- Conflict avoidance
- Concession/acquiescence rather than mutual gain

ACO Walker notes in his interview, that the current prescriptive crewing chart is the catalyst for the MFB's lack of ability to have flexibility in deployment of resources. Michael summarises this view, similar to that of Bucci (2010), in stating that the current EBA provides that if the number of available on-shift firefighters falls below 269, off duty firefighters must be recalled to duty to make up that number. The EBA also includes as an annexure a directive on crewing which provides for the numbers of certain ranks required on each shift and their location, as well as a chart showing how crews will be allocated to appliances and numbers of specialist skills required. These sections of the agreement should however, be read in conjunction with another.

Michael further adds that there is no magic in the number of 269. In recent EBA's the number was 248 and prior to that there was no specified minimum. Removing 269 does not compromise public safety, rather provide flexibility and the MFB can provide numerous examples where for various reasons the minimum was not complied with (without industrial disputation). The MFB seeks the flexibility to have on shift, the right number of resources, bearing in mind the ability to recall should circumstances change. (see Appendix C, Crewing Chart).

The alternative argument offered by the UFU is that such a proposal would compromise public and firefighter safety. A very emotive argument!

#### Research Question E Results

The final research question identifies the issues to establishing an EBA for future demands. Industrial Officer Hogan's view to identifying EBA issues for future demand are based around relationship building between all parties and increasing the sphere of influence within the political environment. Aaron notes such issues as management re-asserting its prerogative and right to manage, gaining political support and confidence to negotiate, establishing employee trust, demonstrating fair dealings and support to fix issues (non partisan), management will and finally building evidence for change mechanisms.

KPMG (2010), adds support to this notion to "brief the unions and provide opportunities for collaboration and initiate formal negotiations in accordance with union agreement" (p.8). Michael Walker too notes that it is the players involved who determine the outcome, not the framework itself. The framework though must provide for consultative mechanisms but it is the relationships that can build and identify a workable framework to meet demand. ACO Walker's view is that relationships with the UFU must be built and maintained as well as those with the government so as negotiations can take place with confidence and not be influenced by third party mediators. He adds bipartisan decisions and outcomes are those likely to find common and acceptable ground. A personal observation too, is that MFB must gain the confidence of government so as to negotiate in its own right. The legislative framework can then assist in determining fair and equitable outcomes.

## Discussion

It can be seen throughout the literature review that the findings of others and indeed the study results are, in the most part complimentary in terms of the research questions posed. The research identified that the MFB required a contemporary negotiation framework to meet future demand.

In regard to the representative parties bound by a negotiation framework,

Edwards (2005) finds the following:

Unionisation is the effort by employees to act in a single unit when dealing with management over issues relating to their work. When properly constituted and recognised, a union has the legal authority to negotiate with the employer on behalf of employees to improve wages ... conditions of employment ... as well as administer the labour agreement. When a union represents employees and bargains collectively, the terms and conditions agreed on become a contract between the parties (p.212).

The FWA Act (2009) notes that, “the object of this Act is to provide a balanced framework for co-operative and productive workplace relations” ... (p.4). The Act adds, ... “assisting employees to balance their work and family responsibilities by providing for flexible working arrangements ”(p.4). Edwards (2005) adds, “collective bargaining is the process by which union representatives for employees in a bargaining unit negotiate employment conditions for the entire bargaining unit” (p.212).

It is the current framework that relies on both parties to formally negotiate an agreed outcome. Here though, and in regard to personal interpretations that affect and provide for implications to the MFB, such a framework is flawed if agreement cannot be reached. As viewed and as determined by FWA, dispute resolution procedures often result in parties being adversely affected by arbitrary decisions made. These decisions can cause disharmony which lasts the life of the agreement and need to be managed by employers. In support, the FWA Act (2009) notes, “FWA may deal with disputes by arbitration, including ... making orders ... (p.431). The research also provided for some unexpected findings in terms of the parties bound by the current framework, their rights and their relationships with their constituents.

As noted by Edwards (2005),

The process of collective bargaining in the private sector is different from that in the public sector. Although many of the practices involved with public and private sector labor relations are identical, their underlying legal frameworks are not. The nature and purpose of government as opposed to the management of a private company present major philosophical and legal differences. In the public sector, the employer is the public at large, which acts by establishing laws enacted by their elected representatives. In general, public employees have no right to withhold services from their fellow citizens, which forms the basis for the “no strike” clause in federal and most state collective bargaining laws, especially with public safety agencies such as fire and police departments (p.213).

In this context, with respect to collective bargaining legislation is such that it places binding arbitration on public employees such as firefighters and police officers.

The paradox here, presented by the research findings is that the legislation exists to both protect as well as arbitrate rights of employees and the public sector. The current negotiation framework, in terms of future demand needs to address the ageing workforce of the MFB and the associated resourcing issues caused by length of service of those employees and their possible separation from the organisation. Robinson (2009) notes, “retirements are most likely at 58 years with 30 years service” (p.184).

Robinson (2009) adds too:

thus it can be identified that age is a critical factor in determining retirement and given the current superannuation incentives, firefighters are likely to retire at age 58 as long as their length of service is equal or greater to 30 years (p.19).

Hence to meet this demand, future requirements need to have a flexible, well balanced workforce and service provision capability. ACO Walker notes here that resource flexibility and crewing alternatives are required to meet the significant forecasted increase in employee separations. Michael added that recent government approved changes to superannuation rules as described by Robinson (2009), may encourage employees to exit the organisation.

In such cases an EBA negotiation framework needs to include and requires a flexible crewing regime with innovative resource deployment options, in consultation with the UFU. The area of prime focus of the MFB is to ensure that it more effectively utilises resources by altering the manner in which crewing and rostering are arranged. This focus is over and above personal and legislative employee arrangements, either called up in FWA Act (2009), or negotiated by the parties. KPMG (2010) notes too “The VBRC (2009) examined the organisation arrangements ... in relation to proposed organisational structures”... (p.20).

Any structural change must be announced and included in both consultative forums and change mechanisms of a contemporary framework. As noted by Aaron Hogan and supported by the research, change is the future demand that requires to be clearly identified and implemented. A framework that includes consultative committee representation, a change agenda with continuous improvement and a dispute resolution agreement is one that has the potential to succeed and assist in the MFB meeting its future demand and those of its people and the government. In line with the research and results findings, personal exposure and experience can attest to the fact that it is the view of the Organisational Leadership Team (OLT) that some form of organisational change will arise as a result of the recommendations of the VBRC (2009). It is important that the MFB is strategically and functionally well positioned to optimise its future and be able to meet community expectations arising from those recommendations.

In support, the IESF (2009) notes that, “to position Victoria to meet future challenges, the ESO sector needs to be shaped by a clear framework that encompasses current and emerging issues” (p.4). Developing a strategic position in terms of people development, in alignment with a negotiating framework will assist in identifying problems and create new capabilities and benefits. Alignment with the investment logic mapping process, as cited earlier will provide a framework for organisational reform and impacts. Consequential results and positive implications will include:

- developing and overseeing the implementation of the organisational EBA policy that facilitates a negotiated outcome culture across the whole organisation and meets the legislative requirements that follow,

- clarifying the responsibilities for EBA negotiations within the organisation, and the ESO sector, and
- determining and developing the capacity, both in physical and non-physical resources, required to implement a modern EBA negotiation framework.

Edwards (2005) notes too, that principled negotiation based on:

- People - Separate the people from the problem
- Interests - Focus on interests, not on positions
- Options - Generate a variety of possibilities before deciding what to do
- Criteria - Insist that the result be based on some objective standard (p.232)

can provide options to ensure negotiation outcomes align with future needs.

UFU (2010) notes that, “key barriers to achieving a well functioning fire agency, in particular ... should address issues of cultural change and industrial relations” (p.2). This view is clearly annunciating the notion and indeed the research problem question that, by default, change and the industrial relations process, inhibits the MFB in its pursuit of a contemporary framework that fosters change and flexibility and hence, validates the research purpose statement. A different, but just as compelling view is offered by ACO Walker in that, while the framework is seen as hindering the process, it is the overarching political environment that, just as implicitly, impacts on the MFB’s ability to meet and deal with the process in a fair and equitable way.

Personal interpretations too, have observed political pressure being applied to negotiating parties to ‘strike a deal’. Regardless of the structure, it is this political interference that has

implications for the MFB and disadvantages the organisation in terms of a level playing field to negotiate with confidence, an agreed outcome.

The dichotomy here also is, as stated by IR Manager Hogan that past agreements have included a renegotiation clause, citing a 6 month timeframe whereby negotiations can commence prior to an agreements termination. Personal observations have seen this clause rarely complied with. Moreover, it has been the case to delay such negotiations, and as iterated by Aaron and agreed by ACO Walker, align negotiations with the political election cycle thus providing the employee representative with the added advantage to 'make it uneasy' for the current government in the lead up to an election. In such cases, pressure has been applied to both negotiate and agree to terms that are not always that which one party or another would have agreed to. This clearly indicates a barrier and inhibitor to negotiations and one which requires transparency and openness in any contemporary legislative framework.

Hence, the issues to establishing an EBA for future demand requires the acceptance and willingness to remove any inhibiting factors that impact on the parties. As stated, the framework requires that negotiations be contemporised and that external influences be abated to an acceptable level. Michael Walker has noted that previous negotiations has seen the introduction of neutral mediator, at the request of the employee representative and by order of the government. In such cases, consultative mechanisms and indeed trust has broken down between the parties. Mediator generated outcomes though, as put by ACO Walker are often biased and tainted with one sided persuasive outcomes.

Edwards (2005) notes the concept of communication and trust cannot be underestimated in the search for a framework to deliver all the demands and needs of both parties.

Edwards (2005) cites valid points in relations as:

- Management shares authority and labor shares responsibility, or the process will simply not work.
- The most important strength labor and management have for the future is the relationship that the leaders have with each other.
- Labor and management leaders must continually work on the issue of trust: trust in the process and trust among the individual participants.
- The fire chief and the labor leader must require compliance with agreements made through the process and value participation in the process.
- If either party (labor or management) dominates the relationship, the process will deteriorate. The purpose is not to just get along – it is to make the organization stronger by working together to accomplish common goals (p.230).

Edwards (2005) further adds,

Of the many ways in which the relationship of communication and trust can be developed within the fire department, the most obvious way is to actually talk to each other on a regular basis. Neither the fire chief nor the union president appreciates being surprised with an issue. It is important to keep one another informed of what the issues and concerns are, so that they can be resolved at an early stage, which takes regular communication that is honest and forthright. A

highly developed system of communication between the fire chief and the union president is beneficial for both parties (p.230).

Finally, KPMG (2010) notes, “analysis is useful in identifying opportunities and issues facing the organisation” ... (p.24).

The report adds, opportunities such as:

- Better utilisation of staff skills and expertise;
- Inherent pride of firefighters;
- Explore gaps in state wide service delivery, in which MFESB might expand;
- An ageing workforce will mean high degrees of natural attrition, turnover and new recruitment;
- Strategically partner with other ESOs and government departments;
- Revisit a more flexible service delivery model based on community profile
- Opportunity to better engage with the community;
- Use outcomes of VBRC (2009) to drive change; and
- Encourage innovative approaches.

are key success factors to leverage (p.24).

This concludes that the opportunities clearly encapsulate the research and the issues offered in the MFB’s quest to identify an EBA framework to reflect and meet the organisations future demand.

### Recommendations

At present, the MFB does not have an effective EBA negotiation framework. As stated, an effective, contemporary EBA negotiating framework needs to be both identified and

implemented to meet future demand and needs. Strategies need to be put in place to provide a framework that supports change, flexibility and resource allocation and stakeholder approval. Also, the framework needs to be resilient and flexible enough to provide scope for emerging issues and outcomes of any reviews or legislative changes that could impose and impact on employees, employers, service delivery, communities and government expectations.

Recommendations that support and relate to the study results and purpose include:-

- Development of a whole of organisation EBA framework with defined roles, responsibilities and evaluation policies and procedures.
- Commitment and sign up to a strategic intent and organisational doctrine, sponsored by the OLT, government approved and endorsed by the UFU for a contemporary EBA framework.
- Ensure dedicated project teams are established under a project management framework that have autonomy and empowerment to negotiate on behalf of the organisation.
- Implement a negotiation strategy for resource allocation, including alternative proposals for change implementation, consultative mechanisms and flexible allocation and deployment of resources, based on risk and organisational efficiencies i.e. flexible crewing chart.
- Conduct an organisational analysis, including external forces (political, technological, environmental, social and economic) affecting and impacting on the MFB to identify the strengths, weaknesses, opportunities and threats (SWOT) to establishing an EBA framework to meet future demands.

- Implementation of a stable IR climate which encourages a sphere of influence to be asserted on the political environment.
- Finally and in conclusion, ensure the organisation conforms with the legislative requirements of FWA and is prepared for alignment and implementation of the outcomes of government initiated reviews such as the VBRC, IESF and internal restructures/re-alignments. Strong relationships, partnership, leadership, consultation and commitment to embrace significant change in culture and practice is required to enable a flexible and adaptive approach to value add to Victoria's holistic emergency management and industrial relations framework.

## References

- American Psychological Association, (2001). *Publications manual (5<sup>th</sup> ed.)*. Washington, D.C: American Psychological Association.
- Australian Industry Group. (2010, July). *Fair work act bargaining provisions: The first 12 months*. (No. 9032). Melbourne, Victoria: Author.
- Bucci, C. (2010). [MFB Briefing – Response to Ministerial Enquiry]. Unpublished raw data.
- Carter, K. (2009). [Profile of MFB Workforce – 2009] Unpublished raw data.
- Edwards, S., (2005). *Fire Service Personnel Management, (3<sup>rd</sup> ed.)*. New Jersey: Prentice Hall.
- Fire Brigade Union. (2010, March). *Failing to the lowest common denominator. Rising to the challenge*. Surrey, U.K. Author.
- Hocking, L. (2010). [MFB Position Major Issues EBA 09]. Unpublished raw data.
- Hogan, A. (2010). [Accommodating Flexibility: Challenges faced with implementing flexible work within Emergency Services]. Unpublished raw data.
- Hogan, A. (2010). [Assistant Chief Fire Officers: Commitment and motivation at senior levels in the Metropolitan Fire Brigade]. Unpublished raw data.
- [http://www.fairwork.gov.au/employment/agreements/pages/bargaining\\_in\\_good\\_faith ...](http://www.fairwork.gov.au/employment/agreements/pages/bargaining_in_good_faith...)
- [http://www.en.wikipedia.org/wiki/statutory\\_authority](http://www.en.wikipedia.org/wiki/statutory_authority)
- Industrial Relations Victoria. (2006). *Victoria Public Sector Industrial Relations Policy Manual (2006)*. Victoria: Australia, Government Printing Office.
- International Labor Organisation, (2007). *The ILO at a glance*. International Labour Office. Geneva: Switzerland.

KPMG Report , (2010). [MFESB: Report for organisational realignment project].

Unpublished raw data.

MFESB Annual Report 2007-08, p.7.

MFESB Annual Report 2009-10, p.29.

MFB Annual Plan 2008-11, p.7.

MFB Business Plan 2009-10, p.3, p.6.

Moore, B. (Ed). (2004). *The Australian concise oxford dictionary* (4<sup>th</sup> Ed.). Melbourne:

Oxford University Press.

National Fire Academy. (2006, October). *Executive Development Course ED – Student Manual*.

Emmitsburg, MD: Author.

National Fire Protection Association. (2003). *Fire protection handbook*, (19<sup>th</sup> Ed.) Quincy MA:

Author.

Parliament of Australia. (2009). *FairWork Act 2009*. (No. 28). Canberra: Australia.

Government Printing Office.

Parliament of Victoria. (2009). *2009 Victorian Bushfires Royal Commission - (Interim Report)*

(No.225). Victoria: Australia. Government Printing Office.

Parliament of Victoria. (2009). *Integrated Emergency Services Framework*. Victoria: Australia.

Government Printing Office.

Parliament of Victoria. *Emergency Management Act 1986*. (No. 30). Victoria: Australia.

Government Printing Office.

Parliament of Victoria. *Metropolitan Fire Brigade Act 1958*. (No. 6315). Victoria: Australia.

Government Printing Office.

Parliament of Victoria. *MFESB & UFU Operational Staff Agreement, 2010*. Victoria:

Australia. Government Printing Office.

Robinson, S. (2007). [MFB Analysis of Specialist Operations Skills Profile]. Unpublished raw data.

Shaw, J. (2009). Building bridges: Winnipeg tragedy forces union and management to work together in new relationships and better morale. *Firefighting in Canada*, v53(6), 12-14+

United Firefighters' Union. (2010, April). *Position paper on behalf of the United Firefighters' Union of Australia in respect of the amalgamation of the fire services of Victoria*.

Melbourne, Vic: Author.

Waites, N., R, Lansbury, (n.d.). Collective bargaining and flexibility: Australia. Retrieved

January 4, 2011, from [http://www.ilo.org/publish/english/dialogue/ifpdial/publ/infocus/australia\\_3\\_3.htm](http://www.ilo.org/publish/english/dialogue/ifpdial/publ/infocus/australia_3_3.htm)

### EBA Workplace Agreement Negotiation Process

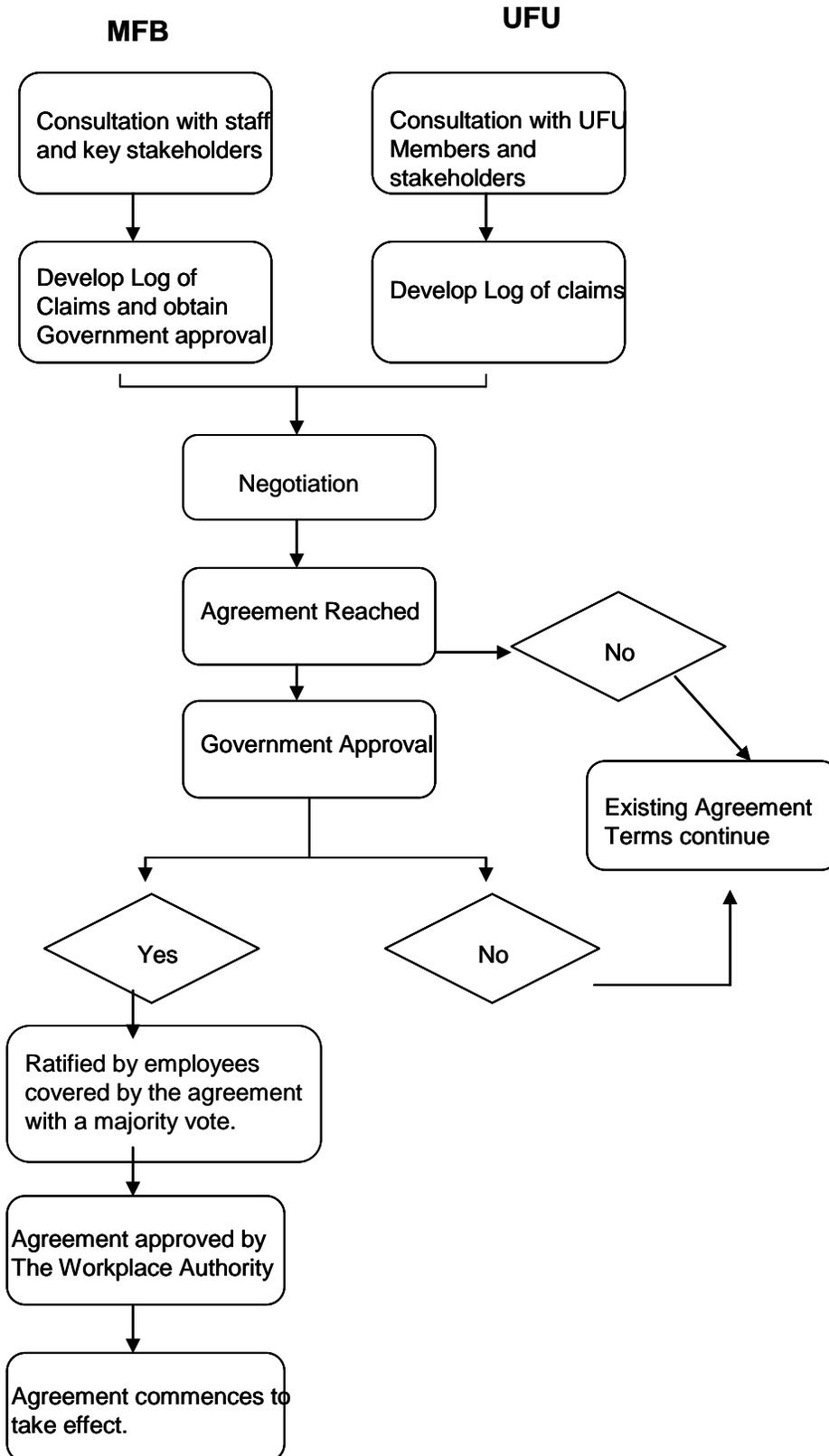


Figure 1.C: Length of Service of Operational Staff at 30 June 2009

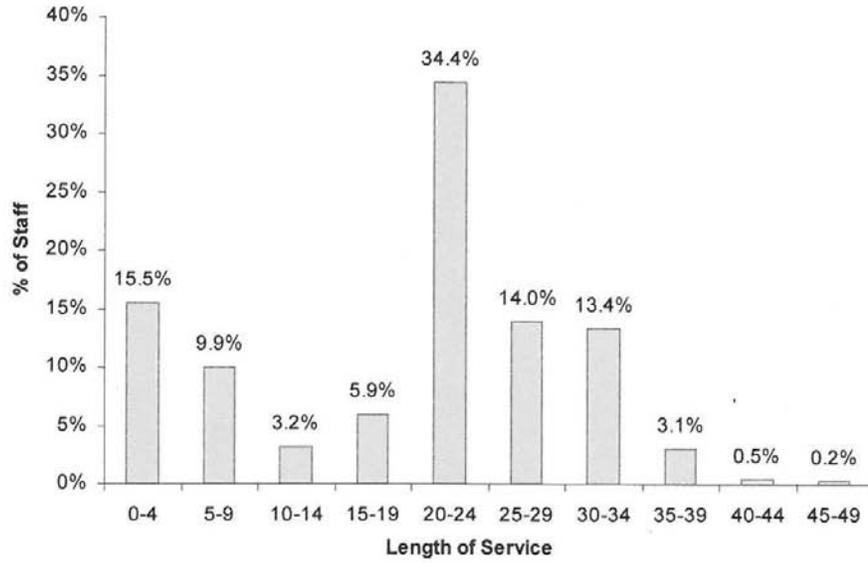
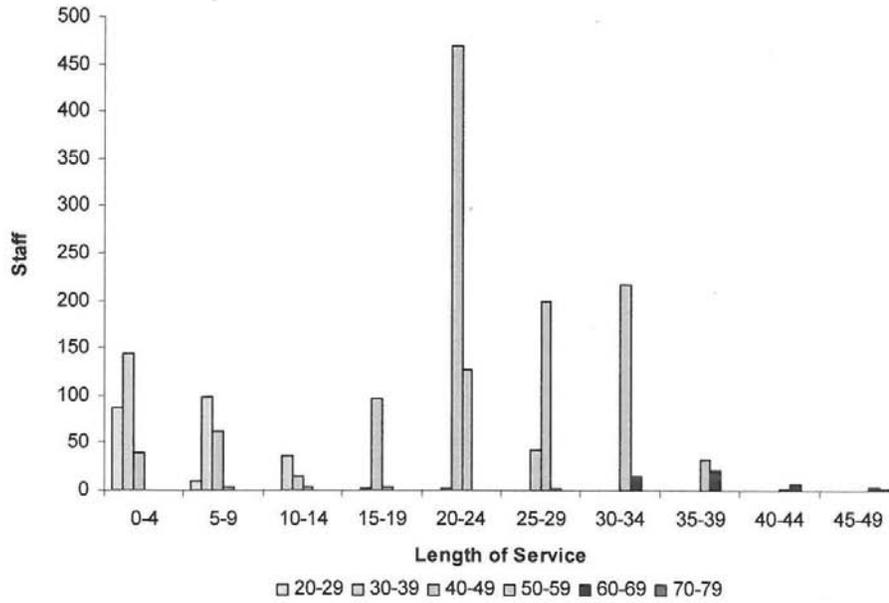


Figure 1.D: Length of Service of Operational Staff at 30 June 2009 Split by Age Range





## Appendix D

## FAMILY FRIENDLY AND FLEXIBILITY CLAUSES

Clause Title	Description	MFB Claim
Individual flexibility arrangements	Provides for variation of the Agreement by individual arrangement between the MFB and an Employee	In accordance with the Fair Work Act Inclusion of a clause that enables the MFB and an individual Employee to agree to an arrangement that varies the effect of the Agreement in order to meet the genuine needs of the Employee and the MFB.
Alternate duties		Essentially unchanged but makes clear that alternate duties will be worked in accordance with the current arrangements that have been agreed between the MFB and the UFU. Employees may at their discretion undertake alternate duties when not rostered on other duties, however employee will not be entitled to any award payment or covered by award conditions for those alternate duties.
Paid personal leave	Provides sick leave and carer's leave entitlements.	Allows an Employee to take carer's because of an unexpected emergency affecting the member. Application with medical certificate or a statutory declaration but not be required in the first three instances each year. The MFB's proposed clause contains different provisions about the evidence required for sick leave and carer's leave, having regard to the requirements of the Australian Fair Pay & Conditions Standard and the National Employment Standards.
Unpaid carer's leave		Consistent with the National Employment Standards Provides up to two days' unpaid carer's leave per occasion where an Employee has exhausted their entitlement to personal leave.
Special sick leave	This clause provides for a	Essentially unchanged

	number of additional and particular sick leave entitlements	
Compassionate leave	Provides leave entitlements in the event of death, serious illness or injury of immediate family member or member of household.	Three days' paid bereavement leave per occasion of the death of a member of the Employee's immediate family or household Two days' paid compassionate leave per occasion of the serious injury or illness of a member of the Employee's immediate family or household.
Pressing necessity leave	Provides for additional leave in special circumstances.	Changes that allow pressing necessity leave to be taken where special circumstances exist. Eg: Where an Employee takes compassionate leave in the event of a serious illness or injury, the Employee's pressing necessity leave entitlement (if any) will be reduced accordingly.
Parental leave		National Employment Standards additional notification entitlements.
Paid parental leave		Increase the entitlement to paid maternity leave from twelve weeks to fourteen weeks.
Flexible working arrangements for parents		National Employment Standards clause allows parents of children under school age, or of disabled children under the age of 18 years, to request a change in working arrangements to assist the Employee to care for the children.
Shift Bank	Enables employees to substitute a shift within limitations	Creation of a shift bank. Participants in shift bank entitled to be absent for a shift provided that they nominate to perform another equivalent shift. This will grant Employees flexibility to meet, for example, recurring child access obligations.
Transition to retirement	The MFB proposes to implement a	Provide positions in each zone to be made available as "transition to retirement" positions.

	<p>transition to retirement scheme. Persons appointed to these positions may reduce their working commitments by 50% over a period of time of up to two years.</p>	<p>These positions will allow Employees who are on the brink of retirement to remain in the workforce for a period of two years while reducing their working commitments by 50%.</p>
Job share roles	<p>To create job share positions. Opportunities for Employees to better balance their work and family responsibilities</p>	<p>Proposal to create job share positions, shared between two Employees. Job share participants share the total requirements and entitlements of a full time position on a 50% equitable basis. Participants will be required to meet additional skills maintenance requirements.</p>

