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UNITED FIREFIGHTERS UNION OF AUSTRALIA A.C.T. BRANCH

Tuesday, 2 August 2011

Submission to the Senate Education, Employment and Workplace Relations Standing Committee inquiry into:

Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Bill 2011

The United Firefighters Union of Australia, ACT Branch (UFU ACT) represents 332 career firefighters in the Australian Capital Territory, employed by the ACT Fire Brigade. UFU ACT members are employed under the terms of the ACT Fire Brigade Collective Agreement 2010, and have their Workers Compensation provided for by Comcare, in accordance with the *Safety, Rehabilitation and Compensation Act 1988* as amended from time to time.

Due to the direct relationship between UFU ACT members and the Bill before this inquiry, the UFU ACT is in an important position to make a submission to the inquiry.

Background to the Bill

The Bill before the inquiry is an important step for the Australian Government towards recognising the essential role played by firefighters in Australian communities, and the inherent risks and dangers faced by firefighters on a daily basis.

The Bill seeks to amend the *Safety, Rehabilitation and Compensation Act 1988* to provide a presumption that if a firefighter is diagnosed with a stated cancer, and has worked for the prescribed qualifying period, then it would be presumed that the cancer is a work-related illness and the firefighter would be entitled to compensation like any other work-related injury. The presumption can be overturned if there is evidence to prove that some other factor caused the cancer.

The fact is that upon recruitment, firefighters are usually in the top 10% of Australians in terms of physical health and fitness, but after five years in the job, they are five times more likely to contract one of the cancers listed in the Bill. This is an unavoidable risk of firefighting, and one that should be recognised by Workers Compensation legislation. This Bill seeks to do that.

While new to the Australian political landscape, similar legislation already exists in 43 US States, and 7 Canadian Provinces, and is being considered in many countries in Europe.

The evidence

There is a wealth of evidence available in international studies that conclusively prove the link between firefighting and cancer. Given the work related risks that firefighters are exposed to, it is an occupation that has attracted much academic research into the health risks of these exposures.

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The LeMasters study of 2006, commissioned by the Department of Environmental Health at the University of Cincinnati College of Medicine provides an overview and meta-data analysis of 32 of these studies.

LeMasters et al found that the results of the 32 studies confirmed a direct link between firefighting and the cancers listed in the Bill. The study is the largest of its kind on the subject, and covered a total of 110,000 firefighters. This study, as well as the other associated studies, provides compelling evidence to support this Bill, and will be explored in more detail by other submissions to the inquiry.

Importantly however, the research indicates that nearly every structure or vehicle contains materials (particularly some plastics most widely used in building and manufacturing) that, when burned, emit lethal toxins into the air within and around the fire:

“At the fire scene, firefighters are potentially exposed to various mixtures of particulates, gases, mists, fumes of an organic and/or inorganic nature, and the resultant pyrolysis products. Specific potential exposures include metals such as lead, antimony, cadmium, uranium, chemical substances, including acrolein, benzene, methylene chloride, polyaromatic hydrocarbons, perchlorethylene, toluene, trichloroethylene, trichlorophenol, xylene, formaldehydes, minerals such as asbestos, crystalline, and noncrystalline silica, silicates, and various gases that may have acute, toxic effects.” – LeMasters et al.

Unfortunately, upgrading Personal Protective Equipment or processes in the job cannot contain or mitigate this exposure. Modern Personal Protective Equipment (PPE) is required to breathe in order to reduce the effect of exposure to extreme heat. In order to breathe, PPE must, by design, allow air (and therefore toxins) through the fabric, which comes into direct contact with and is absorbed into the skin. Many of these toxins are carcinogenic, and are easily absorbed through the skin.

ACT Firefighters and the effect of the Bill

Coverage of the Bill

The UFU ACT Branch, with 100% membership density, represents all 332 career firefighters in the urban fire service, the ACT Fire Brigade. All UFU ACT members will be protected under the provisions of this Bill, as they're Workers Compensation is directly provided for by the provisions of the Safety, Rehabilitation and Compensation Act 1988, and they would fulfill the requirements of subsection (9) of the Bill.

Additionally, there are a small number (less than 100) of firefighters employed by the ACT Government Department of Territory and Municipal Services. These firefighters are responsible for grass fires and prevention measures in ACT Government grasslands within the built-up area, and in the rural areas of the ACT in certain circumstances. Territory and Municipal Services firefighters

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are not eligible to be members of the UFU ACT Branch, and this submission does not seek to represent their interests.

Further, the ACT has a small number of volunteer firefighters, working for the Rural Fire Service or the ACT Fire Brigade Community Fire Units. These volunteers have limited exposure to fire incidents compared to their career firefighting counterparts in the ACT Fire Brigade. Volunteer firefighters are also not eligible for membership to the UFU ACT Branch, and this submission does not seek to represent their interests.

Role and exposure of UFU ACT members in the ACT Fire Brigade

The *Emergencies Act (Australian Capital Territory) 2004*, bestows responsibility on the ACT Fire Brigade (employing UFU ACT members) for responding to structure fires; motor vehicle fires; hazardous material incidents; rescue incidents (including urban search & rescue and motor vehicle accidents); and chemical, biological and radiological incidents within the built-up areas as defined by the Act.

According to the Dept Justice and Community Safety Annual Report 2009-10, UFU ACT members responded to around 1400 fires, and 218 Hazardous Materials incidents in that year. 1,132 of those fires were classified as structure, motor vehicle or 'other' fires.

Incident Response:

For context, incidents are generally responded to in the following way:

| Type of Incident | Minimum response | Additional Response |
|-------------------------|---|--|
| Vehicle Fire | <ul style="list-style-type: none"> • 1x Pumper Crew | <ul style="list-style-type: none"> • Additional pumper crews (if identified risk to life/property) |
| Structure Fire | <ul style="list-style-type: none"> • 2x Pumper Crews | <ul style="list-style-type: none"> • 1x Pumper crew (for confirmed fire) • Additional pumper crews (large building/large fire or risk to life or other structures/) • Breathing Apparatus Van (prolonged incidents) • Aerial Appliance (for multi-story buildings) • HAZMAT Van (where suspicion of Hazardous Materials is evident) • Incident Command (District Officer/s or Superintendent/s) for large or prolonged incidents |

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| | | |
|-----------------|--|--|
| HAZMAT Incident | <ul style="list-style-type: none"> • 1x Pumper Crew • HAZMAT Van | <ul style="list-style-type: none"> • Additional Pumper Crews • Incident Command (District Officer/s or Superintendent/s) |
|-----------------|--|--|

Nb: A pumper crew consists of 4 (sometimes 5) firefighters; Breathing Apparatus Van, Aerial Appliance and HAZMAT Van consist of 2 firefighters each; Incident Command can be anywhere from 1 to 4 firefighters/officers

Additionally, many structure fires require a pumper crew to be on 'fire duty' in the days after the fire, to ensure that the fire doesn't reignite, and that members of the public don't access the fire ground. Fire Investigators (firefighters take on this role in the ACT as well) are also required to investigate the fire ground in the days following a fire, where toxic gases and substances can still be present.

Based on the information above, each incident has the potential to expose up to 50 firefighters and officers to carcinogenic toxins and the resulting cancer risk. As Canberra grows, the number of incidents, and the 'weight of attack' (the amount of firefighters and appliances responded to an incident) will grow as well, further exposing firefighters to the risk of cancer in their work.

Impact of this Bill

The above information provides important context for the inquiry to recognise the need for this Bill, however it is also important to recognise the impact of the Bill on UFU ACT members in light of that context.

The Bill will essentially reverse the onus of proof when a firefighter contracts cancer that is directly related to their work. Currently, a firefighter who contracts one of the listed cancers would be required to prove (often through expensive litigation) that the cancer was caused by their work. This process is not only costly for our members, but adds incredible unnecessary hardship and stress on members and their families during an already traumatic time.

This Bill removes that unnecessary hardship and stress. It allows firefighters to continue working hard and risking their lives to protect the community with the knowledge that if they contract cancer as part of their role, they will be protected and supported by a legislative framework and system designed to recognise the risks they face every day.

The future of this amendment

This Bill is an important first step to recognising the link between cancer and firefighting. It could be argued, however, that the Bill could go further to achieve this aim. The list of proscribed cancers in the Bill is by no means exhaustive, and the evidence suggests a clear causal link between firefighting and many other types of cancer as well, including prostate cancer;

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oesophageal cancer; skin cancer; ureter cancer and multiple myeloma. It is noted, however, that the Bill provides for additions to be made to the proscribed list by Regulation, though these cancers and others are expressly provided for in other jurisdictions internationally, most notably Canada.

Also of note is the fact that the Bill could be seen to preclude part time and retained firefighters. This matter is dealt with in other submissions, but should also be taken into consideration when assessing the real impact of this Bill, and its potential shortfalls.

Perhaps most importantly, however, is that the Bill as drafted does not provide the strongest presumption of cancer in firefighters. While it reverses the onus of proof to allow the presumption that cancer is caused by firefighting, the Bill still allows for the insurer (in this case Comcare) or the Employer to rebut a firefighters claim for compensation, and have that matter heard before the Administrative Appeals Tribunal or the Federal Court. Given that the evidence of the link between firefighting and cancer is conclusive and proven, the Bill should provide for the strongest form of presumptive relief (a non-rebuttable presumption) so as to truly recognise the proven carcinogenic risks associated with firefighting.

Conclusion

It is an unfortunate fact that some firefighters are killed in the line of duty. However, there is now a tremendous weight of evidence that proves that it is not always 'just one' fire that could kill a firefighter, and in fact it is often the case that exposure to many fires and the toxins associated with them can be the real killer.

Other jurisdictions have recognised these facts, and legislated to appropriately protect firefighters. It is time that Australia did the same.

The fact remains that whether it is one fire or one hundred fires, our compensation system should be designed in such a way that it protects firefighters, so that they can continue protecting Australian communities. While this Bill could go further to protecting firefighters, it is an important first step.

It is for this reason that the United Firefighters Union of Australia, ACT Branch supports this Bill, and commends it to the Committee.

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