

**FIRE AND EMERGENCY COMMANDERS ASSOCIATION
NOTICE OF EMPLOYMENT RELATIONSHIP PROBLEM**

Under Clause 21 (g) Fire and Emergency New Zealand and The New Zealand Fire and
Emergency Commanders Association (FECA) Statement of Understanding & Collective
Employment Agreement 1 April 2018 to 31 March 2021 (“CEA”)

Nature of the Problem

1. Our Members have been advised their positions will be disestablished under the new structure. Under the Employee Transition Protocol (“the Protocol”), they are now “affected employees”.
2. In the Introduction to the Protocol, it states where any conflict arises between this Protocol and an employment agreement, then the provision in the employment agreement will apply.
3. Clause 25 (Consultation with the Association) imposes an obligation on FENZ to consult over changes that may impact our members terms and conditions of employment. The obligation includes providing the reasoning behind proposed changes and implies a genuine effort on the part of FENZ to respond to our Members’ views motivated by a desire to reach a consensus.
4. CEA Schedule 4 provides (summarising):

[21] FENZ will use best endeavours to consult meaningfully with FECA in a co-design context over the manner of appointment and validation criteria for new positions within the coverage of the CEA (emphasis added).

[22] FENZ are fully committed to engaging with FECA in relation to the current change process, including issues such as how it will be determined whether roles are contestable or not and what selection and appointment processes will be, where there is a need for a competitive process...(emphasis added)

5. Under the Overview of Employee Transition Process in the Employee Transition Protocol (“the Protocol”), position impact assessments (“PIAs”) will be included as

indicative assessments and following consultation the Final PIAs will be confirmed as part of the Decision Document.

6. On 11 May 2020 the National Commander, Deputy Chief Executive Service Delivery released the following documents:
 - (a) Final PIAs position statement.
 - (b) PIA Summary of Differences in Position Purpose between: District Manager and Area Manager.
 - (c) PIA Summary of Differences in Position Purpose between: Group Manager and Assistant Area Manager.
7. The position statement and the Final PIAs are flawed because:
 - (a) The base position descriptions from 2009 (then relabelled 2012) used for the current roles were outdated and not fit for purpose.
 - (b) There was inadequate consultation with our Members about the use of these outdated AM and AAM position descriptions as the baseline.
8. In formulating the Final PIAs, FENZ failed to take proper account of:
 - (a) the lack of currency of the position descriptions and the relevance of the information contained in those position descriptions; and
 - (b) Importantly, the evolution of job creep is not represented in the present-day reality of the current roles, including without limitation impacts of the following Legislation:
 - FENZ Act 2017
 - Health and Safety at Work Act 2015 and Regulations
 - Sale and Supply of Alcohol Act 2012
9. In formulating the Final PIAs, FENZ failed to place sufficient weight on the Commanders skills, knowledge and experience to deliver on the 4Rs of emergency management as mandated by the FENZ Act 2017, which is important context in detailing this dispute.
10. If the Final PIAs are used in the assessment of our Member's suitability for redeployment opportunities for our Members, who are affected persons, they will potentially be disadvantaged because the PIAs do not fairly represent our Members' "current positions".

Action Required:

- Written responses to the following questions.
- Mediation following receipt of the written responses.

Questions

1. Will FENZ treat our Members who have been acting up for two years or more as affected persons?
2. Why was it decided to use the 2009/2012 position descriptions for Area Managers and Assistant Area Managers?
3. Who comprised the panel of decision-makers who decided the Final PIAs? Please state their qualifications, relevant emergency management and/or operational experience?
4. At which point, or points, did they become involved?
5. Who did the decision-making panel consult in the decision-making process, internal and external?
6. What involvement did the FENZ Board have in this process, and what was the timeline of their involvement?
7. Why did FENZ not convene a panel comprising a representative sample of our Members to properly:
 - (a) Assess the changes proposed?
 - (b) Co-design pathways to achieve the change?
 - (c) Identify and validate compliance with the CEA?
8. Please provide copies of the following:
 - (a) Copies of all draft versions of the draft PIAs (including any handwritten notes, and documents in track changes)
 - (b) Minutes of all meetings between the panel of decision-makers about each of the PIAs

- (c) All emails and written communications between the decision-making panel relating to the PIA assessment process
 - (d) All emails and written communications between the decision-making panel and external advisors relating to the PIA assessments
 - (e) Panel members notes, memoranda, and meeting minutes in the PIA process.
9. Please provide copies of the following:
- (a) PIA Summary of Differences in Position Purpose between: District Manager and Principal Rural Fire Officer.
 - (b) PIA Summary of Differences in Position Purpose between: Group Manager and Deputy Principal Fire Officer.
10. In relation to the Principal Rural Fire Officer and Deputy Principal Rural Fire Officer PIAs, please provide copies of the following:
- (a) Copies of all draft versions of the draft PIAs (including handwritten notes and documents in track changes).
 - (b) Minutes of all meetings between the panel of decision-makers
 - (c) All emails and written communications between the decision-making panel relating to the PIA assessment process
 - (d) All emails and written communications between the decision-making panel and external advisors relating to the PIA assessments
 - (e) Panel members notes, memoranda, and meeting minutes in the PIA process.
11. Does FENZ agree the current position descriptions do not accurately reflect the actual responsibilities carried out by different AMs AAMs? Does FENZ agree that applying a one-size fits all current position description will unfairly disadvantage some AMs and AAMs who are already carrying out duties and responsibilities consistent with the new District and Group Manager positions?
12. In an email dated 30 May 2020 to Des Irving, Kerry Gregory stated the co-design processes envisaged in clauses 19-21 of the CEA were undertaken before the formal consultation was carried out in September 2019 with the publication of the Proposal. He said the Proposal was shaped by the co-design processes ran with FECA. He asserts this “co-design process” included development of the Position Descriptions which define the scope and requirements of the new positions within the new structure.

13. Several references were made to co-design in the email. Please provide a list of all the specific results of the “co-design” process DCE Kerry Gregory was referring to.
14. FECA maintains the PIAs and the new Position Descriptions were not co-designed. They were designed by FENZ in consultation with FECA. Consultation is not co-design. FECA believes FENZ are in breach of Schedule 4 of the CEA for failure to adhere to its obligations to co-design. Please comment.
15. Why does FENZ consider there is a 20% or more material difference in the duties and responsibilities between the AM and District Managers’ roles and the AAM and Group Managers’ roles?
16. Under the Transition Protocol, FENZ is applying an 80/20% yardstick for determining material difference in roles. By reference to each duty and responsibility under the new position descriptions for District and Group Managers, identify what the changes are from the “current” AM and AAM position descriptions, and ascribe the percentage change using the 80/20 rule to each difference.
17. Of these differences, which does FENZ say are trainable?
18. How does FENZ define and quantify “transformational leadership”?
19. What percentage, using the 80/20 rule, is “transformational leadership” a component of the District Managers’ and Group Managers’ roles, compared with the AM and AAM current roles?
20. Why have FENZ not established Local Advisory Committees in any of the metropolitan areas?
21. Why has FENZ not established any Land Management Forums in accordance with the FENZ Act 2017?
22. Does FENZ agree the District Managers’ and Group Managers’ roles are alternative positions with comparable duties and responsibilities to the AM and AAM roles? Please give FENZ's reasons.

Solution Sought

1. A fair and reasonable process for impact assessment.
2. Set aside the Final PIAs in relation to AM/DM and AAM/GM
3. Convene, as a matter of urgency a Final PIA Review Panel comprising a representative section of stakeholders including FECA.
4. Final PIAs based on a fair and reasonable analysis of what AM and AAMs current duties and responsibilities are, taking into account factual job creep which has taken place over the last 11 years since the outdated 2009/2012 position descriptions were created.

Roy Breeze

Roy Breeze
President
5 June 2020

Des Irving

Des Irving
Secretary
5 June 2020