

**STANDING COMMITTEE ON LEGISLATION**

**WORKFORCE REFORM BILL 2013**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
FRIDAY, 7 FEBRUARY 2014**

**SESSION ONE**

**Members**

**Hon Robyn McSweeney (Chair)  
Hon Sally Talbot (Deputy Chair)  
Hon Donna Faragher  
Hon Dave Grills  
Hon Amber-Jade Sanderson**

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**Hearing commenced at 9.23 am****Mr FRANK MARTINELLI****President, United Firefighters Union, sworn and examined:****Mr KEVIN JOLLY****Secretary, United Firefighters Union, sworn and examined:****Ms LEA ANDERSON****Assistant Secretary, United Firefighters Union, sworn and examined:**

**The CHAIR:** On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

**The CHAIR:** You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

**The Witnesses:** Yes.

**The CHAIR:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing for the record, and please be aware of the microphones and try to talk into them; ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Bearing in mind that the committee has already received and read your written submission, do you wish to make a brief opening statement to the committee?

**Mr Martinelli:** Yes, please. I will start reading from the “Statement and Briefing Notes”, which has been tabled. Kevin Jolly and myself have between us nearly 70 years’ experience as both volunteer and professional firefighters. We both grew up in the regional WA area and we are both qualified professional station officers as designated by rank within the WA fire and rescue service.

Our union represents professional firefighters and the majority of our members come from a fire and rescue background. There is a minority of members that are from a bushfire background. Our union is 99.3 per cent organised and we have approximately 1 200 members who work predominantly in operational fire defence—on stations, in regional offices, headquarters as well as communication systems officers in our specialised 000 call centre, personnel at Forrestfield training academy and in the built environment. So it is a fair expanse of coverage.

I will now hand over to our branch secretary, Kevin Jolly.

**Mr Jolly:** I just want to give an overview of the work and how it fits in with the Western Australian community. You would all be both aware and appreciative of the work that professional firefighters and officers do and the services that they provide 24 hours a day, seven days a week to our communities across Western Australia. Firefighters and officers do dangerous work in extremely difficult conditions and have direct contact with our citizens in the most trying of circumstances, including but not limited to catastrophic fires, hazardous material incidents and road crash rescues.

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As a result of the services that firefighters provide to the community, they are held in high regard and are often rated as equal first with paramedics or lifeguards when the community is surveyed about their opinions of and trust in people working in different occupations in our societies.

Our professional personnel are highly specialised and their skills are unique and not readily transferrable to other government departments or agencies. There is in reality very little possible flow-on effect from our industrial conditions and wages to other government departments or agencies. Our union covers a small private fire service that contracts back to the Department of Defence as well.

It is true that our members sometimes are poached or recruited to deliver and plan broader emergency responses to the mining and resources industries, and any change to government wages policy that makes our conditions and wages less competitive in the broader employment market will have a negative impact on the government's capacity to attract and retain qualified personnel. Even with the recent projected downturn in our resources sector, the union is aware of overtures being made to our members across all ranks, and any limits on our capacity to fairly bargain for improved wages and conditions will trigger other expensive problems for government. The movement of highly specialised and trained firefighting personnel to the private sector becomes an economic burden on the state because it is not cheap to train and develop professional firefighters and officers from the time they are recruits up to and including promotion through our rank structure.

[9.30 am]

We have a unique industrial agreement and a unique system of shift rostering for our stations, the specialist 000 communications centre and some senior officer positions. The 10/14 shift roster is effectively a set of two 10-hour day shifts followed by two 14-hour night shifts, and also provides four days off between sets and allows for unique fatigue management protocols and arrangements to ensure that operational personnel are fit and available for duty.

Whilst we are in the thick of a horrendously busy fire season, and the recent fires have had strong media coverage, it is a myth to assume that firefighters' work is quiet in winter. All year round they attend road crash rescues and hazardous material incidents, and in winter there are many property and structural fires, as opposed to fires in summer which often start in the bush but soon escalate to threaten lives, property and infrastructure.

As stated in FESA's final annual report, our members attend and deal with just over 80 per cent of the state's fire incidents. This statistic is important because the validity of what we say is not based on how big we are or how many people we have on our books or how much of the state's land is vested in our care; what counts is that our members are there attending 80 per cent of WA's fire incidents.

Volunteers are a valuable resource for our services and in some country areas including more remote locations they are the only response. However, what must be operationally and clinically assessed is the obvious decline in the number of volunteers, the average age of volunteers and whether or not they can ever replace professional services. This data has to be cross-referenced with the obvious population growth in our state in both the rural and metropolitan areas. My union's view is that we need to develop a professional fire and rescue service within Western Australia.

This week, statements were made in the Victorian Auditor-General's report about the Victorian response to natural disasters including fires, which highlighted the problems with overestimating the number of volunteers that can be deployed in emergency situations. The report also commented on issues with mobilisation, recruitment and training and made recommendations about strengthening responses throughout Victoria as they approach the fifth anniversary today of the catastrophic fires in that state. And we again express our condolences for all those lives lost in those terrible fires.

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Many of the operational issues are amplified in our state of Western Australia because of the tyranny of distance that we have to contend with and our lower base of population. My union is on the record as a strong critic of the series of federal governments for not distributing more of the GST collected in WA back to WA to ensure that there is a better funding base for critical infrastructure, such as enhanced fire and rescue services and improved road conditions. Volunteers will always be needed in WA, and they need to be better supported by increased numbers of professional operational personnel distributed around the state.

As such, volunteerism is not a solution for a cheaper or more efficient fire and emergency service for our communities. As risks grow and populations increase, the professional fire and rescue service must expand to ensure that our communities across WA are adequately protected. Currently there is no obligation set out in any of the fire legislation to annually audit the membership, fitness, competencies and currency of competencies in any of our volunteer brigades and our union has a strong position on the need for such data to be collected so that any planning for operational service delivery can be organised in a rational, objective and considered fashion.

I will now hand over to our assistant secretary, Lea Anderson, to address any questions you may have about our submission and the proposed Workforce Reform Bill and the impact on our members.

**Ms Anderson:** Thank you and good morning to you all.

If I may, there are a couple of general points specifically relating to our submission that I would like to outline. Our union has not supported redundancies traditionally because of the need to retain highly specialised operational personnel. It is true that many people, as they approach the end of their careers, are quite attracted by redundancy packages. Our fear has always been that with redundancies comes a loss of either a full-time equivalent position or budgetary allocation for staff in general. Very few operational firefighters or officers have been placed on the attached list and there are virtually no jobs that are obvious redeployment opportunities for firefighters and our senior officers in other state government departments. From time to time when our operational personnel have to come off the trucks, as we say in our industry, the department has worked with these people to transition them into more administrative or support roles to ensure that the valuable investment that the government has put into operational personnel is not lost to the industry. In our view, and particularly in an era when the department is being run by a commissioned officer, we are seeing more opportunities for the return of operational personnel to key areas of administration and leadership and that, in our view, makes very practical and common sense.

The fire and rescue service is a rank-structured service with an obvious chain of command. This structure is driven by operational and specialist industry imperatives, so the notion of one size fits all for matters as significant as disciplinary procedures, redundancy, redeployment and wages outcomes is indeed not a good fit for all. We have the Fire Brigades Act and its regulations that set out our codes and disciplinary procedures and there are sections of the Public Sector Management Act that do not apply to operational personnel because of the Fire Brigades Act and its regulations. Many matters that can be properly dealt with within the chain of command and rank structure would seem quite alien to civilian administrative workers and, indeed, some of the more generic procedures, and in particular grievance procedures, that suit civilian administrative staff are not suited particularly well to our rank-structured workforce.

Our union is frequently asked to consider draft policy from the department and we recognise that the department employs roughly 400 administrative staff or civilian staff and nearly 1 150 operational personnel. Again, in our view, one size does not fit all and so standards that the public expect to be maintained by firefighters and officers have been successfully delivered, but through slightly different vehicles of management under the Fire Brigades Act and its regulations. From time to time our members receive industrial warnings that could impact on their employment, and in some other instances they are dealt with under the strict disciplinary proceedings of the Fire

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Brigades Act and its regulations and these matters can also have an impact on their employment. We see no value in any change to the proceedings and regulations that oversee operational personnel. Disciplinary matters for firefighters and officers have never been able to be referred to the Western Australian Industrial Relations Commission on appeal and our members have never had access to the public sector arbitrator, which is a vehicle for other public servants, with the exception of the police I believe. A lot of the comments made in the draft Workforce Reform Bill that relate to those areas have traditionally had no application to firefighting personnel.

We believe that the systems of appeal set out under the Fire Brigades Act and its regulations are very valuable. Indeed, at the moment we are working with the department and the volunteer fire and rescue service, which is similarly covered by the Fire Brigades Act and its regulations, on a review of that act. There are some areas that require modernisation and we have also been participating in a series of consultative meetings with the department, other government agencies and other volunteer organisations about a projected new emergency services act, which we believe will probably not be drafted for at least another couple of years. Our union's position is that the Fire Brigades Act and its regulations work. We do not want to throw the baby out with the bathwater and we would like to see that act incorporated in the future legislation.

**Hon DAVE GRILLS:** Just with your act—the emergency services act—being that the fire brigade are not typically emergency services, how do you see that fitting in with that?

**Ms Anderson:** It is our view that when the emergency services act is drafted, we would hope that it has specific sections that cover the fire and rescue services. We are on the record in those other consultative committees as saying that we also would like to see the chain of command enforced for multi-agency incidents. From time to time there are problems in terms of discipline and accepting operational direction on fire grounds and at incidents with some volunteer groups. We do not have those issues with the volunteer fire and rescue service because they come under the same act and regulations and we would like to see some standardisation. We believe that the recent changes following Keelty's first and second reports have been very positive and we have seen some significant improvements under the leadership of our commissioned officer Wayne Gregson for the department. We have commented publicly about the fact that it is a good thing to see our service and our officers regaining some control. I know I have used language that is perhaps paramilitary, but that reflects the culture and the sort of work that we do. Very similarly, I would presume, too, that in the police union and the police force you would hear those sorts of arguments come forward.

**Hon DAVE GRILLS:** I was just thinking that when you were talking about redundancies and hanging on to people. Because the police do that; the police just flick coppers and that is the whole point. Just on the St John thing, would you see under the emergency services act, especially with volunteers out in the bush, a paramedic-type set-up like is happening sort of now? Would you see that coming a bit further as far as that sort of thing goes with your volunteers?

**Ms Anderson:** I am not sure. Our personnel have manage-injuries competencies, so they have senior first aid certificates and additional qualifications beyond senior first aid—I think the equivalent of advanced resuscitation, spinal management and other manage-injuries sort of qualifications—because they are often the first on the scene before the ambulances arrive. Because our ambulance services in Western Australia are provided by St John, which is a private sector community-based arrangement, I am not sure how the projected emergency services legislation will be written to pick that up. The working relationship on the ground between ambos, police and firefighters is wonderful, and there is a strong commonality. In terms of union representation, the ambulance service, I think, is covered by the miscellaneous workers' union and we speak to that specific branch within that big union from time to time about matters we have in common, and we have a good working relationship with the police union.

**The CHAIR:** The committee has some questions that we would like to ask and the committee might break in and ask different questions at different times. On the screen appearing now, you will

see a copy of recommendation 39 of the 2009 Economic Audit Committee's final report "Putting the Public First". That inquiry began in 2008 and called for submissions on its terms of reference. According to the final report, your organisation made no submissions to that committee inquiry. Is that correct?

**Ms Anderson:** That is correct.

**The CHAIR:** Can I ask why the organisation did not?

**Ms Anderson:** In 2008, our union was dealing with a completely different organisation to the Department of Fire and Emergency Services that we deal with today. Our matters were chronic and we are quite a small union. We did not see the value at that time in making a detailed submission. There are a number of sections of the Public Sector Management Act that the economic audit report makes reference to that are not particularly relevant to our industry. Certainly, whilst we understand and appreciate the significance of that report, we are also attracted to recommendation 37 of that report that talks about lifting the freeze on attraction and retention benefits, which appears to us to be inconsistent with any restriction on government wages policy and further amendments to the Industrial Relations Act about such restricted wages policy.

[9.45 am]

**The CHAIR:** In 2011 the Treasurer tabled an updated progress. Did your organisation ask the Public Sector Commission to accept a late submission about the economic audit?

**Ms Anderson:** No; we did not.

**The CHAIR:** Thank you. Was your organisation consulted by either government or the Public Sector Commission at the drafting stage of the Workplace Reform Bill?

**Ms Anderson:** Not that I am aware of.

**The CHAIR:** One of the things that your submission did not address was whether the current policy relating to redundancy, redeployment and termination is working. The 2009 Economic Audit Committee final report made certain comments about the current policy, which is shown on screen, and, clearly, that report suggested the existing policy of permanency for public servants was deficient. Does your organisation have any views about permanency in the public service employment as a policy choice? Does your organisation have any specific response to the views expressed in the audit committee final report?

**Ms Anderson:** Our union is of the opinion that some of those sections of the Public Sector Management Act and the recommendations coming out of this report do not relate to us. Legally, that has not been tested. We have checked the Fire Brigades Act and its regulations, which were amended in 2013. We have also checked the Public Sector Management Act to see whether the Department of Fire and Emergency Services is listed on any of the schedules that the Fire and Emergency Services Authority—or FESA—previously had been listed on as exempted or included. It is our view that in terms of our operational personnel and our members, that involuntary redundancies are an imperfect mechanism to deal with somebody who may be inefficient or unable to do their work. One of the other issues we face as a union and as an industry is that our people from time to time are injured and cannot work in operational fire defence so they have to come off the trucks. Those injuries can be physical as well as mental injuries because of the sorts of trauma they face. We have a very efficient system under the Fire Brigades Act and its regulations of a medical panel and access to earlier retirement, but it is our view that many of these people are able to be redeployed within the department but back into more administrative functions. We think that that is a far more humane approach. In our industrial agreement, we have a fairly standard redundancy provision. One of the aspects of the proposed bill that disturbs us—from memory I cannot recall our specific comments—is that we would not want to see our redundancy provisions overridden by an act. We think that if there are problems with our people, they can be managed effectively within the rank structure. We spend a reasonable amount of our time dealing with

disciplinary matters now and some of those arise from performance matters, including insubordination. We think that there are very effective tools. Commissioner Gregson has strongly supported the senior officers, who are our members as well, to deal with these sorts of issues at all levels of rank.

**Hon DONNA FARAGHER:** Thank you for that. Further to that as well as your opening statement, you mentioned that as a general rule, when your officers come off the trucks, to use your term, they would go back into the department and undertake administrative roles and that that is something you would support because their experience is retained within the department. I can understand that. In terms of the evidence provided to us by the Public Sector Commission a couple of days ago—I appreciate that you were probably not here to hear it—we asked some questions about what would be the process when a person comes onto the redeployment list. The commission indicated that the first port of call would be to look at other opportunities within the department or agency. Obviously, that might not be available in all circumstances, but how do you see the current general rule of thumb for how officers are dealt with changing under this bill?

**Ms Anderson:** Our concern would be that people who have been successfully redeployed within the department may be cast out. We do not think that is fair or humane in the approach. Many of these people have taken huge risks to protect our communities and we think there is a better way of dealing with them. Perhaps more clinically, another consideration that sometimes is not taken into account is how much money the government has spent on the development of these people from the time they were recruited to be firefighters, particularly those of our members who have been promoted through the ranks to become officers—station officers, area officers, district officers, superintendents, chief superintendents, assistant commissioners, deputy commissioners and the ultimate position of commissioner. The more the government has spent on training someone into a highly specialised professional position, the less sense it makes to just say, “That’s it; there is no opportunity for you; off you go.” We think there is an obligation for government as a whole to consider that investment. It is very difficult for our officers to be redeployed successfully into other government departments. Some people have been placed, not for reasons of redeployment, with the State Emergency Management Committee. That makes sense because they are representing our industry in that broader committee. A couple of members have had post-traumatic stress disorder who have not been able to be successfully redeployed within the department because of the risk of re-injury from any potential exposure, even administratively, to trauma. Mostly, they have been medically retired out because it has been difficult to place them in other government departments. These are men and women who have some incredible skills and talents that are not transferable because our industry is as narrowly focused as it is.

**Hon DONNA FARAGHER:** The concern you have is that, essentially, through the bill, if someone were to come onto the redeployment list, the opportunity to remain in the department will be gone and they could be transferred immediately to another department. So that I am clear, is that one of the concerns?

**Ms Anderson:** That is one of the concerns, or that they would be terminated if there were no positions available.

**Hon AMBER-JADE SANDERSON:** Can you describe the process now? I think that is what we are not clear about.

**Ms Anderson:** When somebody has to come off the trucks —

**Hon AMBER-JADE SANDERSON:** Or being dealt with as —

**Ms Anderson:** We have a return to work policy.

**Hon AMBER-JADE SANDERSON:** — poor performance or injury. What is the process now?

**Ms Anderson:** Regardless of the circumstances?

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**Hon AMBER-JADE SANDERSON:** Yes.

**Ms Anderson:** People are returned to headquarters unless they are in regional Western Australia and, wherever possible, we would lobby for them to go to a regional office. They are vocationally assessed by the department.

**Hon AMBER-JADE SANDERSON:** The actual process, not necessarily what the union —

**Ms Anderson:** No; they are vocationally assessed by the department.

**Hon AMBER-JADE SANDERSON:** What is the panel?

**The CHAIR:** Can I butt in here. Hansard needs to record, and they need to record one person at a time, so can we have just one person at a time, otherwise it is very hard for them to pick up what you are saying. Thank you.

**Ms Anderson:** Personnel are vocationally assessed and the department then tries to match the skills they have with work that is required by the department in the other non-operational areas. The department's administrative work includes key areas of operational support and capability—I think that is the new name for a section that is headed up by Deputy Commissioner Fewster—and we are seeing a number of innovative projects being undertaken that are absorbing some of these people. The department of built environment is an area where many operational members can go and undertake some specialised training and continue to deliver services. Some of our members, including firefighters and officers who are on maternity leave or who are pregnant, from time to time can go into our specialised 000 communications centre. They receive some additional training and they are able to work there because working in operational fire defence in some circumstances is unavailable.

**Hon AMBER-JADE SANDERSON:** What roughly are the annual numbers of people who get redeployed in the department in this way within the department?

**Ms Anderson:** It varies. I would say fewer than 10, but it is difficult for us to give you a figure with some accuracy.

**Mr Jolly:** The department finds it difficult to train people. All these other areas in admin, as Lea said, about built environment or any operational areas—they just build up the communications centre, which they call the ROC and SOC—need highly developed skills. We cannot put someone in there who has no background or history, so it is suited to people who come off the trucks, as Lea said, particularly at the officer level when they have incident command knowledge. It further adds to their skills to put them in there. Obviously, there are only so many areas and so many positions.

**Hon DONNA FARAGHER:** Thank you for that. It is helpful because obviously your officers are perhaps in slightly different circumstances from some other public service officers.

**The CHAIR:** Has your organisation identified any technical drafting errors in the bill? Have you gone through the bill and identified anything that is technically wrong?

**Ms Anderson:** Other than the comments I made earlier about our union's view that there are still sections of the Public Sector Management Act that do not apply to operational personnel, that has not been tested. In the event that it is tested and the union's view is wrong, we would have some significant concerns about the application of matters we have discussed, for example, about involuntary redundancies.

**The CHAIR:** Would you like to make any comments about the proposal to put the government public sector wages policy into the Industrial Relations Act?

**Ms Anderson:** Yes. Our union believes that any reference to policy in legislation is too vague. Legislation is much easier to work with when it is more specific, and policy can change from time to time. We believe that references to policy in legislation will trigger more cases of arbitration and will consume government's resources in that arena rather than leave the Industrial Relations Act



and the requirements that commissioners have to take into account, for example, the economic impact of all the decisions of the commission. We believe that is strong enough and that the state government can use that ground to put an argument for its position about whatever it believes is a reasonable limit for expenditure on wages. Like any other employer, to further tie the hands of the commission to consider policy, we believe would be inefficient. Quite often the department will put draft policy to the union for comment and we spend a lot of time working with them to refine policy so that it is more practical and the outcome is less negative for members. We certainly believe that the proposal in the Workforce Reform Bill that refers to government wages policy or policy in general is not the best way to draft legislation.

[10.00 am]

**Hon AMBER-JADE SANDERSON:** I want to seek your comments on the use of CPI as the benchmark for wage increases, and your members' view about it.

**Ms Anderson:** My understanding is that the CPI that is referred to in the state government wages policy is a CPI that will be calculated by the Western Australian Department of Treasury rather than the CPI most of us are more familiar with that comes from the Australian Bureau of Statistics. It is not clear to our union what the basket of goods is that the Treasury will be referring to to calculate the CPI, and further that the metropolitan CPI may not be particularly relevant for personnel who are living outside the metropolitan area and are facing much higher costs of living. The district allowance has come a long way to address some of those issues, but one of the anomalies in that process, from our perspective, was the failure to recognise how expensive it is to live in Kalgoorlie. There was no change at the end of that process, but we struggle to attract and retain personnel in Kalgoorlie. The professional station that sits on the edge of Kalgoorlie and Boulder not only services those cities, but it has a fire district that is larger and they go out of that district, particularly to deal with road crash and hazardous material incidents. Even in the last fortnight we have had correspondence from our members at Kalgoorlie fire station saying how difficult it is for more junior firefighters on lower wages to survive financially in comparison with people who are long established in the town and are not trying to find rental accommodation.

**The CHAIR:** Kalgoorlie is one of those areas; it is huge.

**Mr Jolly:** Also, the comparison of their wages with the other industries there is significantly less, and the allowances and stuff that are added do not come up to the mark. We see station officers equivalent to apprentices in different trades around the town.

**Hon SALLY TALBOT:** I wanted to give you the opportunity to elaborate on that answer. How many of your 1 114 members are regionally based?

**Ms Anderson:** It is approximately 300. We were just doing a private consultation about it, because we immediately think of how many we have on stations, but we also have members in regional offices where there are no professional stations in places like Karratha, Port Hedland, Broome and Kununurra. If I may, I would just like to emphasise that the Economic Audit Committee's report—I think it is recommendation 36—suggests that the freeze on attraction and retention benefits, while maintaining and enhancing the current controls and scrutiny being applied to decisions referred to those benefits, should be lifted. In our view that would address problems, such as the problems we have at Kalgoorlie, and that appears to us to be completely inconsistent with the current state government wages policy as it has been outlined in the statements since November 2013.

**Hon SALLY TALBOT:** Given that 25 per cent of your membership is based in the regions, do you have a mechanism now for arguing in the WAIRC for a different wage calculating mechanism?

**Ms Anderson:** We have been unsuccessful in negotiating a Kalgoorlie allowance, in particular. We have relied on specific negotiations with regard to the application of attraction and retention benefits for the relocation of personnel—most recently from the metropolitan area to the Manjimup regional office. Yes, we could seek to have, at the moment, such a matter arbitrated. We have not

sought to have allowances arbitrated since 2007, but we are about to commence enterprise bargaining agreement negotiations, and, again, the Kalgoorlie allowance attraction and retention issue is one of the key issues for our regional membership.

**Hon AMBER-JADE SANDERSON:** Just quickly, what were the percentage wage rises that you achieved in your last agreement for all members—allowances aside?

**Ms Anderson:** It is four, four and a half and 3.95 per cent.

**Hon AMBER-JADE SANDERSON:** Did you enter into any productivity gain as part of that?

**Mr Jolly:** Yes. For the last three agreements there have been efficiencies and change in work practice.

**Hon AMBER-JADE SANDERSON:** So there has been the ability for negotiation on that?

**Mr Jolly:** Absolutely.

**The CHAIR:** Would you like to make any comments about the proposal for the WAIRC to have to consider the financial position and fiscal strategy of the state?

**Ms Anderson:** Again, our union's view is that that is not the most efficient way to draft legislation. In our opinion, the existing requirements that the industrial commissioners have to adhere to provides the state government with the opportunity to put those arguments forward about, for example, the recent change to our AAA credit rating. Interestingly, since 2006, we have run several matters—an allowance matter and, if you like, the work value matter, the instructors' case—and the employer and the state government, which could have intervened separately to put some of those arguments, chose not to do that. So we do not believe that there is any need to further, if you like, nobble the Industrial Relations Commission and constrain it to consider policy when it already has the capacity to consider those sorts of economic arguments.

**The CHAIR:** Would you like to make any comments about the proposal to require the WAIRC to consider the financial position of the public sector entity?

**Ms Anderson:** Our union's position is very similar to the position that I have just outlined.

**The CHAIR:** Would you like to make any additional comments about the proposal to limit the WAIRC's jurisdiction over involuntary separations to looking at whether the regulations and commissioner's instructions were fairly applied and whether appropriate termination benefits have been paid?

**Ms Anderson:** Yes. We believe that those proposed changes that would limit the powers of the commission fly in the face of natural justice and that people who are being made redundant on an involuntary basis should have the right to be able to put their case. We would not like to see that sort of power abused. We have not had any experience of that recently with the department and I would say that is because of the change in leadership and direction that we have seen. However, if you take away people's capacity to put an argument and to allege, for example, that they have been unfairly dismissed or that this has been unfairly put to them, you are denying them an opportunity to seek justice. We have not had a dream run with the industrial commission—it might sound as though we have from what we are saying. We get smashed and criticised and our arguments are taken apart fairly regularly, but because our members do not like taking industrial action because of the impact that it has on our communities, we have relied very strongly on our ability to put arguments before the commission. We refer to the commission, if you like, as an umpire, because we often have to justify the outcome of our matters to our membership when they are not happy with the umpire's decisions.

**Hon DONNA FARAGHER:** Could I clarify one thing as well? Yesterday we heard evidence from the police, and obviously they operate under the Police Act. I understand they have some

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restrictions in terms of access to the commission. Do you have any restrictions? I recall you mentioning something in your opening statement, and perhaps you could elaborate on that.

**Ms Anderson:** If one of our members receives three industrial warnings—the third warning being the final warning—then we could put a case, if there were grounds, for unfair dismissal to the state Industrial Relations Commission. However, if our members did something—to use the old-fashioned language of industrial relations—that was considered to be gross misconduct and that matter was dealt with under the Fire Brigades Act and its regulations as a disciplinary matter, then we have no recourse to the Industrial Relations Commission, and we have never had recourse to the public sector arbitrator as other public servants have. So we are not exactly the same as the police, but we are quite similar, I suppose. Although it is our view that many sections of these proposed reforms do not apply to us, in the event that we are wrong or that the government further refines the bill to bring us under, we would argue that we are not happy about that at all. Certainly, we have had a few cases that have gone through our disciplinary procedures. We have had none in the last seven years that have gone to the final stage of appeal. In the first instance, they are now heard by the deputy commissioner. In the second instance, if there is an appeal either on the decision or the penalty, it then goes to the commissioner. The final level of appeal is to go before a panel that consists of a magistrate appointed by the state's Chief Magistrate and nominee of the chief officer—or commissioner now—and a nominee of the union. Firefighters are very cognisant of their responsibilities. The union speaks to our recruits twice during their training—we do not cover them until they graduate—and we hammer them about working within a rank structure, the chain of command, and the fact that the way they conduct themselves outside of work can have an impact on their employment. We have seen very few allegations of what we would call gross misconduct, but we understand the state's responsibility for our citizens and we believe that the system we have in place is efficient and effective and deals with those sorts of matters very well.

**Hon SALLY TALBOT:** I am very impressed by your description of the way that the IRC works as a kind of deliverer of a fair go, so that your members might not be happy with the determination but they are pretty happy with the process. Given that the IRC does currently have to consider various economic parameters to do with the wellbeing of the state, can you describe for the committee how the proposed new arrangements would undermine that sense in which the IRC is seen as a sort of independent arbiter that enables your members to feel they have been heard?

**Ms Anderson:** In our view, the state Industrial Relations Commission would not only have to consider the economic impact of any decision that it would potentially make, but also if they were dealing with the state government as an employer, they further have to consider the government's policy about, for example, wages and in the current policy, a projected ceiling of two and a half per cent increase for efficiencies. No other employer gets that advantage before the commission, and we see that as being grossly unfair. As I said earlier, we certainly have not had a dream run and our members demand of us a fairly high standard of representation before the commission. Although they are very reluctant to take industrial action, that does not mean they do not get angry and they do not consider it. How many years is it since we have had a general strike?

**Mr Martinelli:** 1982?

**Ms Anderson:** The last time we had a general strike was 1980. That does not mean we have not placed bans and done other things, but our capacity to have an impact on the collection of revenue is negligible. Our members take very seriously their responsibilities to the community. We have called a special general meeting for 19 February to prepare advice and information about the current government wages policy, the submissions that we have made to you, including today's hearings, and to have a discussion with our rank and file about our strategy for the next enterprise bargaining agreement. We do that anyway, so that it is not seen by our membership that it is the union committee that is leading and is ahead of what they want. For this special general meeting, it is

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extraordinary, and it is the first time that we are having such a detailed discussion around government wages policy.

[10.15 am]

From the feedback that we have received from stations, and in particular during station visits, there is a strong degree of frustration about the sorts of limits that we are facing, particularly when our membership are well aware of the offers that have been made to members of all ranks to go to the resources sector and that is the subject of some discussion. Our membership is roughly the size of a large state high school. They live and work together on stations and they know each other quite well. Mostly, they do not want to leave the service. They like what they do, but they have families to support and they have needs, and we do not want to see limits on how our members can be paid imposed in the way that the Workforce Reform Bill does.

**The CHAIR:** You have probably already answered this question, but I will give you a chance to add further, if you wish. The proposed involuntary separation under the bill can only be used after the existing redundancy and redeployment procedures have been followed. Given that those existing procedures are subject to appeal to the WAIRC, do you really think that you need a right of appeal for involuntary separation?

**Ms Anderson:** Yes.

**The CHAIR:** I think you have given a good description as to why in previous answers. Do you have any comments about the regulation-making powers relating to involuntary separations being sub-delegated to the Public Sector Commission in the form of commissioner's instructions?

**Ms Anderson:** Yes, because, as I have indicated earlier, our membership have not come under that jurisdiction before. We do not believe that the one-size-fits-all approach suits our operational personnel at all.

**The CHAIR:** Do you have any comments about the regulation-making powers and the Public Sector Commissioner's instructions extending to, perhaps, override legislation, industrial instruments or contracts?

**Ms Anderson:** Yes. We think that is unprecedented in this state. Our agreements and industrial instruments are the product of often tortuous negotiations, including some matters from time to time being referred to the umpire for arbitration. We believe that there is no check or balance, if you like, on those powers potentially going to the Public Sector Commissioner. It is not clear to us how that fits in to the tiers of government as we understand them. The tribunal has, in our opinion, served the community very well, even if from time to time our members have been unhappy with some of the decisions.

**Hon AMBER-JADE SANDERSON:** By way of supplementary, are you able to table the clauses in your agreement that you are concerned will be overridden by this?

**Ms Anderson:** Yes, we are happy to respond to the committee and provide the relevant sections of our EBA.

**Hon SALLY TALBOT:** I will just seize the opportunity of you referring to "unprecedented in this state" to ask you a question about other jurisdictions. I imagine that you have contact with your colleagues in other states, particularly when an issue like this bubbles to the surface. Of course, one of the things that the Parliament and the wider community is being told in relation to this bill is that it is simply brings Western Australia into line with other states. Would you like to comment on that?

**Ms Anderson:** It is not easy to compare other brigades around Australia and, in our opinion, some of the other state jurisdictions. The reports that we have had from the Queensland branch of our union about the changes in Queensland to their Industrial Relations Act are really appalling and disappointing. We are seeing firefighters and ambulance paramedics—they are not St John

Ambulance paramedics in Queensland—taking unprecedented levels of industrial action and protest. We do not want to see that sort of industrial culture come to our state.

In our view, the Western Australian state government has tended to exercise quite a strong degree of independence. For example, we still have our own family law act and we have at times been far more progressive than the federal system in that area of law. The Western Australian branch of our union is on the record as having criticised the Gillard federal Labor government for some of the changes that were made to what used to be known as the Industrial Relations Commission and the federal industrial relations act. We are very frustrated that the federal act has destroyed access to compulsory decision-making arbitration. We see that as being of some value not only for the union, but potentially for the employer. If you cannot negotiate something, you should be able to put your case to an independent umpire for determination. The Western Australian industrial relations system has retained that, and we believe that has served our community very well. We would hope that the Western Australian government now continues to exercise some independence.

I did make reference on the union's behalf earlier to the position that our union has taken with regard to the lack of access to GST collected in Western Australia. We can appreciate the economic constraints that the state government is currently facing. We are really angry that the GST that is collected in this state is not being distributed back fairly to Western Australia. We believe that is having an impact on infrastructure, such as the building and expansion of additional fire and rescue service facilities not only within the metropolitan area, but also in regional WA. We recently attended our national committee of management meeting—I think, last November in Queensland. We were amazed when we arrived at Brisbane Airport and travelled on the freeways down to the Gold Coast how wonderful their roads and infrastructure are in comparison. Our comments to our Queensland colleagues were, "Look, it's our GST that's funding this!" We would like to see the government able to manage the financial straits that it is facing slightly differently, without having to impose such a low and unrealistic wages outcome.

**Hon SALLY TALBOT:** Thank you.

**The CHAIR:** Well said! Do you have any further comments about the proposal to put the government's public sector wages policy into the Salaries and Allowances Tribunal?

**Ms Anderson:** Very few of our members' salaries and allowances are considered by that tribunal. We have not yet had the privilege of an experience of representing them in that arena, but the comments that we have made about the industrial commission are consistent with the union's views about the consideration of policy by that tribunal. We think that it is a bad way to legislate. We think it is inefficient and it will trigger further and potentially expensive disputes between the parties about how things like policy are considered.

**The CHAIR:** Do you have any further comments about the proposal to require the SAT to consider the financial position and fiscal strategy of the state?

**Ms Anderson:** I do not want to be repetitive. In our view, the comments that we made earlier apply equally to the SAT.

**The CHAIR:** Thank you. That is the last of the official questions. We would like to thank you for your time here today. It has been very appreciated. This session is now closed.

**Hearing concluded at 10.24 am**

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