



# SIGNAL SEVEN

February 21, 2019

## Protected Action Ballot Order Voting Opens 26<sup>th</sup> February

### Time to vote on taking Industrial Action!

The Fair Work Commission has approved our protected ballot order. It is now time for members to vote on whether they want to take industrial action.

### Who

Every UFU member employed by ACTFR EXCEPT those currently in Recruit College.

### What

Voting to take protected industrial action. In order to take any industrial action we need at least 50% of the membership to cast a vote. Of those who vote at least 50% need to vote yes. The vote is conducted by the Australian Electoral Commission (AEC) and is a paper based postal ballot. It will be sent to your home address which has been notified to the AEC. IF YOU HAVE NOT UPDATED YOUR HOME ADDRESS DETAILS WITH THE UFU PLEASE DO IT NOW BY SENDING A text TO 0408 296 801.

### How

There is one Yes / No question. If you want to take protected industrial action tick yes. The types of actions that can be taken are listed, see '**If the vote gets up**' for how the bans may be implemented. Ensure you send your ballot papers back in the reply paid envelope.

### Why

After 27 Enterprise bargaining meetings and nearly 2 years of negotiating we have agreed 'in principle' to a handful of items. The UFU is pursuing 54 claims – there are a lot of outstanding claims and unanswered questions. In short, we think ACTF&R and the Government are not taking us or our claims seriously. Taking protected industrial action is aimed at increasing pressure during negotiations.

### When

The AEC will send out the ballot papers on Tuesday the 26<sup>th</sup> of February. The ballot closes on Friday the 15<sup>th</sup> of March at 10.00am. We estimate that you need to vote and return the ballot by no later than Monday 11<sup>th</sup> of March.

IF YOU DO NOT RECEIVE BALLOT PAPERS BY TUESDAY 5<sup>TH</sup> MARCH, call the AEC Returning Officer Mr Anthony Wells: 02 9375 6364. He will confirm who you are, check the roll to ensure you are on it and ask you to send a declaration confirming you haven't received your papers. The papers will then be re-issued by mail. Unfortunately if you are pressed for time you will need to express post the completed ballot.

### If the vote gets up

The Ban's Committee and the BCOM are in the planning stage of how the bans will be applied for best effect. The bans are not implemented all at once and do not come into force until the UFU gives the employer and our members at least three days notification.

It is important to note that each ban can be utilised by itself or in conjunction with other bans, it can be for short or long periods of time and it is possible some bans may not even be used. The list you are voting on gives the UFU a 'toolbox' to use while bargaining. It allows us to choose the right tool at the right time for the best effect.

### **What protected industrial action means**

Taking part in protected industrial action, in accordance with the Fair Work Act, is a legally sanctioned and protected act. The employer cannot take retaliatory action against a member for engaging in protected industrial action. Have no doubt, if adverse action is taken by the employer on **any member** for participating in protected industrial action the union will pursue the case through any avenues necessary.

In order to be protected members must ensure they follow all directions from the UFU in relation to when they can and can't take action, what type of action can be taken and action that cannot be taken as well as for how long. Straying from directions can open you to legal risk such as disciplinary action from the employer.

## **The Protected Action Ballot Order and Decision**

We now have the final wording of the protected action ballot order, and the Reasons for Decision issued by Commissioner Wilson. The Ballot Order is attached and includes the form of the ballot questions as they will appear on the ballot paper.

The Reasons for Decision make interesting reading. They are attached to the email that included this edition of Signal 7. The key controversy in the proceedings before Commissioner Wilson was whether there were "exceptional circumstances" that would warrant an extended notice period of 7 days in relation to 5 of the bans. As previously reported, the Commission found in favour of the employer in relation to only one of these bans. In the reasons for Decision, the Fair Work Commission commented at paragraph 35:

*"[35] I consider though that Mr Brown has either misunderstood the impact of industrial action that may stem from some of the elements subject to this objection, or has overstated the effects. Not all of his contentions about the questions indicate exceptional circumstances, or would require the exercise of a discretion in favour of the ACT Fire and Rescue."*

We will leave it to readers to put that into their own language.

## **Things That Happen in Industrial Disputes**

As the dispute progresses, we will share with you some instances of what has happened in other states in disputes concerning the fire service employers.

One example is the targeting of individuals, often for no reason at all, on the pretext of allegations of misconduct. This is sometimes a symptom of a siege mentality or insecurity on the part of authoritarian managers who are upset that their employees question their authority, leadership, or capacity to manage.

Members should remember that if they are suddenly asked to attend meetings at short notice, it could be an ambush. In the event that you are not sure about a meeting that you have been asked to attend, ask "what is the purpose", and consider whether you should obtain union representation before the meeting goes ahead. Don't worry: we won't think that you are a pest for asking us to represent you, after all it's what we are here for.

**Authorised by Greg McConville, Secretary, UFU, A.C.T. Branch.**

**This is an official Union document to be shared between members only  
Read out at muster and pin on notice boards.**

# Proposed Timetable – Postal Protected Action Ballot

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## **Matter** Number: **B2019/110**

United Firefighters' Union of Australia

The Head of Service of the ACT Public Service on behalf of Australian Capital Territory T/A ACT Fire and Rescue

## **Timetable**

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Monday 18 February 2019	FWC hearing and making of ballot orders
Wednesday 20 February 2019	Employer and applicant provide lists and covering declarations to AEC (via the AEC Portal) 4:00pm AEDT
Friday 22 February 2019	AEC arranges with employer to place Ballot Agent's notice in prominent locations at workplace by 4pm AEDT (Reg. 3.13)
Monday 25 February 2019	Roll of voters closes at 5:00pm
Tuesday 26 February 2019	Ballot opens – AEC posts ballot material to eligible voters
Friday 15 March 2019	Ballot Closes 10am AEDT. AEC counts ballot and declares the results to FWC and the parties
Monday 18 March 2019	Date by which the ballot is to be completed by (as contained in the FWC order)

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