



February 5 2020

UFU Provides Government with Comprehensive Draft Agreement

Government Postpones Negotiations to Read it.

The story so far...

The ACT Fire and Rescue Enterprise Agreement expired 30 June 2017 (950 days ago today)

42 meetings and 3 days of intensive mediation since negotiations started in April 2017.

14 people have been directly involved in the negotiations on behalf of ACT Government, and 4 on behalf of the UFU (1 of the UFU negotiators was only involved for the first meeting or two).

UFU Staff Resources: 1.4 FTE. (<http://www.ufuact.asn.au/wp-content/uploads/2020/01/UFU-ACT-Audited-Financial-Report-2019-approved-by-AGM.pdf>)

ACT Government staff resources: 19,698.0 FTE
(<https://www.cmtedd.act.gov.au/functions/publications/2017-18annualreport/state-of-the-service-report/act-public-sector-workforce-profile-2017-18>)

Main items sought by UFU:

- Wellbeing initiative including health screening and fitness program;
- More firefighters;
- Mandatory skills maintenance and training for key skills;
- Fire station standards of construction and upgrades.

The relationship to “Core Agreement”.

In the ACT Government, enterprise bargaining negotiations have traditionally proceeded on the basis that the negotiations for the Administrative and Related Classifications Agreement (“The Core”) would take place first. Following that, where the parties agree, items from the core agreement are incorporated into enterprise specific agreements, such as Fire and Rescue.

Mediated outcome

Following 3 days of intensive mediation on 12 & 25 September and 2 October by a former Fair Work Commissioner, a statement was issued by the mediator which addressed mediated outcomes in respect of:

- Consultation;
- Resourcing (crewing) and training;
- Comcen
- For Cause Drug and Alcohol Testing;
- Excess Leave Plan;

- Fitness and Wellbeing;

UFU member meetings agreed in principle to the mediated outcome.

There was no mediated outcome in relation to the UFU claim for Emergency Medical Response. (see “reserved matters” on page 4 of this document)

Recent developments

On 4 December, Government negotiators provided the UFU with a draft agreement which included elements from the core agreement. The UFU examined this document during December 2019 and January 2020 and identified many deficiencies with it. Among those deficiencies were the following:

- Departure from the mediated outcome in relation to the consultation clause
- Changes to the following clauses which had never been previously raised or discussed;
- classification definitions
- conditions relating to promotion
- notices relating to Appointments and Promotions
- Many incorrect cross references
- It did not address changes which had been made to the Public Sector Management Act since the 2010 – 2011 ACT Fire and Rescue Enterprise Agreement.
- It addressed only some of the items that had been changed in the core negotiations.

UFU Comprehensive Draft

In response to the 4 December document, the UFU completed a draft of a comprehensive agreement that represented what the UFU would settle for. It included a number of clauses drafted by the UFU, some of which were amended to reflect variations sought by the employer. It included some clauses aimed at ensuring consistency with the National Employment Standards. It contained clauses drafted by CMTEEDD for what is referred to colloquially as the “core” enterprise agreement. Examples of this include:

- Right to request flexible working arrangements;
- Christmas Shutdown provisions;
- Public Holiday Provisions;
- Annual Leave at half pay;
- Personal Leave at half pay;
- Purchased Leave;
- Community Service Leave

The UFU’s comprehensive draft agreement was provided to the negotiations from CMTEEDD on 4 February on the basis that it was thought to reflect all matters sought in the negotiations, but that it would be subject to final check.

It was intended to meet for a full day on 6 February 2020. This meeting was cancelled by the ACT Government on 4 February in response to the tabling of the UFU draft agreement. The reason given for the cancellation of the scheduled negotiation was that the negotiators would need more time to address the document. One of the negotiators stated that the document included new claims by the UFU. This was contested by the UFU on the basis that the changes sought were to give effect to UFU claims tabled in 2017. The same negotiator said that it had not been agreed that clauses we were seeking to include from the core would be included.

The final point above was a surprise to the UFU because the issue had been raised in negotiation on many occasions, for example:

- Item 1 of the ACT Government claim on 13 April 2017 was “Alignment with core ACT Public Sector Provisions where appropriate”;
- UFU claim 21 of 20 April 2017 sought consistency of leave provisions with core 2017 including the following:
 - Community service leave consistent with Clause F 13
 - Annual Leave on half pay consistent with Clause F 7-26
 - Purchased leave consistent with clause F 9;
- On 23 March 2018 UFU claim 21 – Consistency of leave provisions was raised by the UFU, and the items of Annual Leave at half pay, Jury Leave, Community Service leave, purchased leave and other core conditions coming across were specifically raised. At that meeting a CMTEDD negotiator said they could see no objection to it. In the same meeting a discussion took place about how we would seek to address adoption of the format of the core agreement. The public holiday issue was also raised.
- 24 April 2018 the UFU again raised claim 21 – Consistency of leave provisions core. We asked for the core clauses and conditions to be integrated into our agreement. a CMTEDD negotiator said it could be done in reverse. Look at our agreement and entitlement, and then work on which entitlements have not changed since the core has. The same answer was given in relation to Christmas shutdown
- 3 May 2018 in an email from the UFU to ACT Government it was stated that alignment of leave provisions with core was agreed in principle.
- 9 May 18. Adoption of the ‘Core’ was again discussed. We were informed that Adoption of the “core’ would have the same template and similar numbering to the core;
- 24 October 18. A CMTEDD negotiator stated that they would look at the core and where it intersects our agreement. A table or document will be created.
- 9 April 2019: UFU claim 21 Agreed in principle.
- 13 August 2019. It was agreed that a CMTEDD negotiator would look at our claim 21 and respond (with a view to including clauses sought).

Finally, a table prepared by the Government negotiators shows that UFU Claim 21 was agreed in principle. In light of all of the above, all that the UFU draft did in relation to core conditions was add the conditions which had been discussed repeatedly, and which were said to be agreed in principle. For anyone to claim that these are new matters is folly.

Significant UFU concessions

A further criticism made by a Government negotiator was that both sides would have to give way on some issues if agreement were to be reached. This demonstrates a complete lack of understanding of the context of the negotiations and might be attributable to the many changes in personnel at the negotiating table. With all due respect to all who have been involved, this is not a problem of the UFU’s making.

Below is a list, perhaps not comprehensive, of the areas in which the UFU has made concessions (that is, either dropped the claim or revised it down, or agreed to the employer’s amendments) through the negotiations.

- Promotion timeframes;
- Promotion of employees acting up;
- Timeframes for promotion processes;
- Quantum of pay increase;
- Reclassification of superintendents;
- Superannuation conditions;
- WWVP reimbursement;
- Driver education allowance;

- Hydrostatic testing allowance;
- Allowance rates;
- Leave roster flexibility;
- Recreation leave rules;
- Domestic violence leave;
- Paid maternity leave;
- Paid Bonding leave;
- Disputes procedure;
- Crewing numbers revised down from 204 additional to 95;
- Fire station standards;
- Criteria for promotions to day work and 10/14;
- Comcen review;
- Enhanced crewing arrangements;
- Training relief pumper;
- Media accuracy;
- Spoilt meal allowance

The above list is included to show that significant ground has been conceded in the negotiations. It simply cannot be suggested that we have not given any ground.

Leave Reserved Matters

Arising from the mediation sessions conducted in September and October 2019, the need to include some matters on a “Leave Reserved List” was identified. This means a clause in the Agreement that sets out a process for those matters to be addressed by the parties early in the life of the new agreement. The UFU has identified a number of issues for inclusion on this list as follows:

- Emergency Medical Response Training, responsibilities and allowance (this was an outcome of the mediation)
- Swiftwater Level 1 Allowance
- Annualisation of Superintendent on call allowance and Recall to duty payments
- Interstate deployment and training allowance

The Way Ahead

The work done to provide a comprehensive draft is a significant development and represents the outcome of a lot of painstaking work. The UFU is identifying a suitable date next week to try to finalise the negotiations. Members will be appraised of progress.

Members are encouraged to continue to pursue industrial action in the manner we have done so to date. We are hopeful that the end might see us concluding the negotiations before the passage of 1000 days since the expiry of the current agreement.

Agreement Countdown	
950	Days without an enterprise agreement
255	Days until the ACT Election

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

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