

September/October  
2014

Volume 2 Issue 8

# Branch Newsletter

## September/ October 2014



### UFU OF A AVIATION BRANCH

#### 1. Vale Brynt McSwain

Sadly this newsletter begins with the news that our member Brynt McSwain was tragically killed while cycling home from work on Saturday morning. Our sympathy and condolences go to Brynt's family and friends and to our Comrades at the Perth Unit.

#### 2. Industrial Roundup

As mentioned in last month's newsletter your Union is dealing with a number of agreement/industrial issues. The issues include access to carer's leave, application of the travel standard provisions in the EA, courses and overtime, rest relief [no 8 hour break provisions] and conditions for higher duties at FSM level.

A teleconference between the Union and ASA/ARFF on 16<sup>th</sup> September failed to achieve any resolution of the issues and the Branch Committee of Management has determined that advice be obtained for consideration for further action. Also raised at the teleconference was the issues with completion of the assessments for Suppress Wildfire and potential disadvantage with pay and rank progression. This matter is on the agenda for further discussion at the DCC meeting on 21<sup>st</sup> October.

#### 3. Divisional Consultative Council [DCC] Meets 21<sup>st</sup> October

The next meeting of the DCC is scheduled for 21<sup>st</sup> October in Canberra. The DCC is established under the Enterprise Agreement and is made up of Union and management representatives.

Current Union representatives are Branch President Joe Stenhouse, Senior Vice President Jon Vaughan, Junior Vice President Simon Osborn, Branch Secretary Henry Lawrence and WHS Coordinator Wes Garrett.

The DCC agenda covers a wide range of issues and the minutes of the meetings are accessible via the Avnet. Your Union has submitted the following agenda items for the next meeting:

- Status report on proposed recruit physical aptitude protocol
- Issues with implementation of Fatigue Risk Management System
- Issues with new gloves and personal issue and station spares
- Issues with consultation on station upgrades
- Status report on FRV5 project
- Medical monitoring
- CSS super salary [allowances that form part of super salary]

- Issues with exposures during training
- Issues associated with completion of assessments for Suppress Wildfire and pay and rank progression.

Any additional issues notified to the Union prior to the meeting will be raised in General Business.

## 4. UFUA Aviation Branch - WHS Update October 2014

- **CFBT Workplace Exposure Study**

Wes Garrett, National WHS Coordinator

As members would be aware from our February 2014 newsletter, and as a direct result of your union's unyielding interest in protecting the health and safety of its members, Airservices in partnership with the Country Fire Authority (CFA) have agreed to jointly fund a study costing just under \$200,000 which will focus on the following three elements:

- **SLR Consulting** (formally known as Heggies) - Occupational exposure testing to determine what firefighters undertaking CFBT are exposed to, using three different types of particleboard.
  - What products are depositing on the outside of PPE.
  - What products are passing through or around the PPE and being deposited on the skin? (*Your union is currently in the process of seeking specialist advice in order to determine optimised locations for the placement of skin sampling patches*)
  - What products are being absorbed by the body (urine screening)
- **CSIRO** - Laboratory testing of Oriented Strand Board (OSB), E0 and E1 Particleboard
- **CSIRO** - Environmental monitoring of combustion by-products produced by CFBT (*Nationally, airport environmental officials are advocating the use of thermal oxidisers for this type of training*)

It should be noted that the CFA is undertaking this study as a component of its risk assessment strategy **prior** to implementing a CFBT programme. Some additional information regarding the study:

- Practical CFBT component of the study is scheduled for November
- Study to be conducted at the ARFF Learning Academy, Melbourne
- 8 Participants - (3 Male + 1 Female) ARFF, (3 Male + 1 Female) CFA
- 3 Instructors – ARFF

**COST CONTAINMENT AFFECTS MEMBERS AGAIN:** Our WHS Coordinator, Wes Garrett, has just been advised that the practical component of the study has been “deferred, subject to funding becoming available”, until the latter part of 2015. The shelving of the practical component of the study is a real disappointment. Budgetary constraints are no excuse when your WHS is concerned and appropriate funding must be provided to address legitimate WHS concerns.

Your Union is of the opinion that the dermal absorption element of the study represents a significant step forward in regard to identifying the risks posed by workplace exposure to the many carcinogenic and toxic materials present in the byproducts of combustion, particularly those generated from burning particleboard. It will also provide data which will assist ARFF to design operational policies and procedures reducing the frequency and duration of harmful exposures which have the potential to affect the long-term health of our members. As a result your Union will vigorously advocate for the practical element of this study to be undertaken.

Your Union will again contact Comcare to express your profound disappointment with ASA's approach to in relation to CFBT, building and accommodation standards, insufficient PPE and consultation issues.

- **Gloves**

The Union was made aware of a failure of the inner liner in 4 pairs of the new Super Mars Gloves. Contact was made with the supplier, PACFIRE Australia, who advised that it was aware of the issue and was arranging for samples of the faulty gloves to be sent to the manufacturer [ESKA] in Europe so the problem could be identified and undertook to get back to the Union with advice on what was causing the problem.

Pacfire has advised that the manufacturer has doubled the bonding process to ensure no more faults occur. Pacfire are unsure of the extent of the problem with the ARFF issue as they have had only 1% of the initial supply reported for faulty liners. Members should check their gloves [Super Mars] and report any issues immediately and obtain replacements.

This matter and others associated with personal issue and station spares is on the agenda for the DCC meeting on 21st October.

- **Further heat stress testing to be done**

ARFF has advised the UFU that further testing associated with heat stress management will be conducted in Cairns at the end of October. ARFF state that the reason for the additional testing is that while the testing undertaken at Darwin in November 2013 established full body immersion as the most effective method clinically, it is not considered practical in the field. Given the conclusive body of evidence that full body immersion is the most effective means of managing heat stress the UFU maintain that the focus be on resolving the practical issues rather than testing/retesting other methods which are known to be less effective? Further if as the letter says, the objective of the testing is to "get an accurate indication of the effectiveness of the cooling techniques during the most adverse environmental conditions (i.e. high temperature and high humidity), why isn't the further testing being done in Darwin? Despite our reservations regarding the Cairns trial the UFU have nominated our WHS Coordinator Wes Garrett to observe the proceedings and report impartially on the outcomes.

## **5. Comcare Issues**

### **1. Am I covered under the Safety Rehabilitation and Compensation Act while travelling to attend for duty?**

Members have enquired if they are covered under the S and RC Act while travelling to attend for duty at the Learning Academy in Melbourne. Comcare was asked for their advice on this matter and the following is their response.

#### **Scenario**

Employees attend for courses and workshops at the employer's Learning Academy in Melbourne for example.

Employees travel to the Academy from around Australia and are accommodated by the employer at apartments some distance from the Academy. Are they covered under Comcare legislation if they are injured while travelling to and from Melbourne to attend for this duty?

Employees are required to travel from their accommodation to the Academy and return on a daily basis. Are these employees covered under Comcare legislation if the bus in which they travel is involved in an accident and they are injured while travelling from their accommodation to the Academy and from the Academy to their accommodation?

### Question

- 1) **Are these employees covered for the purposes of compensation for their travel to and from Melbourne to attend the training at the Learning Academy?**
- 2) **Are these employees covered for the purposes of compensation to travel to and from their accommodation to the Learning Academy each day?**

### Answer

Where a scenario is hypothetical, because a claim has not yet arisen, only general guidance can be provided. This is because each claim would be considered on its individual merits and according to the presenting facts, and against the legislation - such that a blanket decision cannot be provided.

- 1) **Are these employees covered for the purposes of compensation for their travel to and from Melbourne to attend the training at the Learning Academy?**

Section 6(1C) of the SRC Act states:

*...travel between the employee's residence and the employee's usual place of work is taken not to be at the direction or request of the Commonwealth or a licensee.*

That is, an employee is likely to be covered for their journey from their residence directly to a workplace other than their 'usual place of work'. This would be true regardless of whether the employee travels in their own private vehicle or whether the journey was made using a work vehicle.

Based on the information provided in your inquiry, the location of the training in Melbourne is unlikely to be considered the employee's 'usual place of work'. Therefore, an injury suffered while travelling from their residence to the training, and likewise, when travelling back home to their residence after the training, would most likely be covered.

- 2) **Are these employees covered for the purposes of compensation to travel to and from the training in Melbourne to their accommodation daily?**

Under the provisions of the SRC Act, liability is excluded where an injury is suffered by an employee whilst they are travelling between their residence, (including a temporary residence), and their 'usual place of work'.

While the employees' accommodation in Melbourne would be considered to be their 'residence', as per the answer to question 1 above, the venue they are attending for their training is unlikely to be considered to be their usual place of work. Accordingly, coverage is likely to exist for travel between the training course venue in Melbourne and their accommodation.

It should be noted that this is the same regardless whether the employees travel to the training via the use of transport provided by their employer, used their own private vehicle, used public transport or even walked. The mode of transport is not relevant.

## 2. Am I covered under Comcare while attending World Police and Firefighter Games or similar events?

### Scenario

Is a Fire Fighter attending an event such as World Police and Firefighter Games or similar events covered under Comcare?

### Response

Where a scenario is hypothetical, because a claim has not yet arisen, only general guidance can be provided to you. This is because each claim is considered on its individual merits, according to the presenting facts and against the legislation - such that a blanket decision cannot be provided.

The short answer is that coverage will likely depend on the level of employer endorsement, encouragement or approval for participation in the *World Police and Firefighter Games* (the Games).

If, as indicated, there is no employer endorsement whatsoever and the employee has registered, travelled, resided and competed as an individual and not a representative of their workplace, then it is unlikely coverage would exist.

However, if there is employer encouragement or endorsement, or if the attendance and participation at the Games has been specifically provided by the employer, it is probable that employees would be covered under the provisions of the SRC Act if they were injured whilst participating in an activity such as the Games.

Section 6(1) of the SRC Act provides that an injury arises out of or in the course of employment if it was sustained:

- (b) while the employee was at the employee's place of work, for the purposes of that employment, or was temporarily absent from that place during an ordinary recess in that employment; or*
- (c) while the employee was temporarily absent from the employee's place of work undertaking an activity:
  - (i) associated with the employee's employment; or*
  - (ii) at the direction or request of the Commonwealth or a licensee**

Whilst attending the Games, it is possible that employee would be considered to be undertaking an activity either associated with their employment or at the direction or request of their employer, (depending on the level of endorsement). As such, any injury suffered whilst undertaking this activity would be considered as *'arising out of, or in the course of, the employee's employment'*.

Where an employee suffers an injury and it is established that the injury *'arose out of, or in the course of, the employee's employment'*, then the claim will generally be accepted. However, there are some 'exclusion provisions' that may apply.

Claims will generally be excluded where:

- The employee sustained the injury because they voluntarily and unreasonably submitted themselves to an abnormal risk of an injury;
- The injury was intentionally self-inflicted; or

- The injury resulted from the serious and wilful misconduct of the employee, (except in cases where the injury results in either death or serious and permanent impairment).

Injuries which occur whilst participating in employer endorsed activities, whether on work premises or not, would be covered unless any of the above exclusions apply.

In determining whether coverage may exist for an activity outside of the workplace or normal work environment Comcare has in the past considered:

- the level of control the employer has over the activity
- level of employer endorsement
- where the activity took place
- were employees directed or requested to attend by the employer, and
- any policies or guidelines the employer has regarding the activity

There is no requirement for each dot point as outlined above to be met in order for coverage to exist. These are merely considerations Comcare will undertake in order to determine whether coverage exists should an employee be injured in the circumstances outlined.

## 6. New Website

BCOM has approved acceptance of a quote for a new website which hopefully be up and running in the next month or so. Unlike the current site the new site will be mobile responsive and will incorporate other new features as well.

## 7. Union Shopper

Members will continue to enjoy the benefits of discount purchasing after BCOM voted to maintain our affiliation with the Union Shopper. **See flyer on page 8**

## 8. Legal Wrap Up from Mona Emera – Principal Lawyer Slater and Gordon Lawyers

### 10 things you should do when you separate

Going through a separation can be a stressful time, and we're often asked by people what they need to do to protect themselves once they decide to separate from their partner. Here are some tips:

#### 1. Change all your passwords.

It's important that you change your bank PIN numbers, internet and telephone banking pass codes and email passwords to ensure money can't be withdrawn from your account. You should also change your social media passwords and have strict privacy settings in place.

#### 2. Check bank accounts regularly and let your bank know that you have separated.

Check your redraw facilities and joint bank accounts. If your partner has withdrawn a very large sum of money from your redraw facility or joint accounts you need to act quickly. Check your accounts regularly and if you are concerned that large sums will be withdrawn without your consent, talk to your bank and see if they will change the account to require two signatures.

When in doubt, inform your bank in writing that you are separated and do not consent to any money being withdrawn from your redraw facility.

#### 3. Put your financial documents and other valuable documents somewhere safe.

It is not uncommon for these documents to disappear after separation. Take them to work or leave them with someone you trust. If you are concerned that your partner may take your children overseas without your permission, put the children's passports somewhere safe too.

**4. Put your sentimental or valuable things somewhere safe.**

If that trinket box that your grandmother gave you is sentimental or you can't live without that signed copy of football memorabilia, put it somewhere safe so it can't be broken in a "WAR of the Roses" style feud.

**5. Change your will.**

Most people don't realise that separation **does not** affect Wills, which means your partner is still the beneficiary of your assets if you pass away. You should also consider whether you want to change the beneficiaries listed in your insurance policies and superannuation fund.

**6. Revoke any power of attorney.**

If you have appointed your spouse or partner as your Attorney it is preferable that you revoke that Power of Attorney as soon as possible.

**7. Keep a diary.**

You may need to recount events to a lawyer including conversations you had with your partner. Maintaining a diary will help you with that task.

**8. Keep things as civil as possible.**

Nobody wants to spend a lifetime fighting with a former partner. The biggest victims are the children. Keep things as friendly as possible for the sake of your children.

**9. Consider whether you need to change your postal address.**

If you are concerned that your former partner will read your mail, consider obtaining a postal box or redirecting your mail to a friend or family member.

**10. Get legal advice.**

You may never need to use a lawyer but make sure that you are fully informed before making life altering decisions. Slater and Gordon offer all UFU Aviation members and retired members a 30 minute free initial appointment in addition to a 10% discount off their fixed fee price if legal assistance is ultimately required. To receive the discount, please call the union office on **07 3846 5580. Members should also note the EAS available through Aircservices.**

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### BCOM Delegates

**North Queensland:** John Ring  
**South East Queensland:** Karl McDonald  
**New South Wales:** Al Lerpiniere  
**Victoria:** Jake Callaghan  
**South Australia:** Simon Osborn  
**Tasmania:** Simon Owen  
Western Australia: Les Milhinch  
**Northern Territory:** Ricky Nolan  
**Canberra (ACT):** Jon Vaughan

**National WHS Coordinator:** Wes Garrett  
**Deputy WHS Coordinator:** Vacant

### Organizers

**Cairns:** Mike McCarthy  
**Mackay:** David Tromba  
**Maroochydore:** Derrick Runge  
**Coolangatta:** Peter Young  
**Melbourne:** Brendon Mimmo  
**Launceston:** Trevor Mortyn  
**Perth:** Vacant  
**Broome:** Vacant  
**Karratha:** John Le Bon  
**Ayers Rock:** Vacant  
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**Townsville:** Tim Creighton  
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**Hobart:** Scott Greenwood  
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**Darwin:** Vacant  
**Port Hedland:** Dennis Nixon  
**Alice Springs:** Vacant  
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**CHANGED YOUR CONTACT OR BANK DETAILS  
LATELY?**

**DON'T FORGET TO NOTIFY THE UNION**