



26 July 2013

Mr. Greg Mullins AFSM
Commissioner
Fire and Rescue NSW
PO Box A249
SYDNEY SOUTH NSW 1232

Dear Mr Mullins,

Re: IRC Matter 461 of 2013 re overhaul to entry requirements for the Inspectors Promotional Program

I write in accordance with the direction of Commissioner Newall setting out the Union's questions to assist next Wednesday's conciliation. I acknowledge that these were expected within 24 to 36 hours of Tuesday's proceedings and apologise for not providing these questions before now, however competing matters (including three other matters before the Commission) precluded this. In the circumstances the Union would not object to receiving the Department's answers by 5pm on Tuesday, 30 July.

The Union's questions are as follows:

Implementation

1. Does the Department acknowledge that emergency services were expressly excluded from the Public Sector Merit Selection Review in 1998 and that the FBEU and the Department subsequently agreed that merit selection for the purposes of firefighter progression and promotion would be an objective knowledge-based test and not a subjective interview/recruitment assessment?
2. Does the Department consider the current Pre-Entry Test to be an objective knowledge-based test based on known marking criteria that reflects the agreement referred to in Question 1?
3. Does the Department share the Union's understanding that the operational components of the current Pre-Entry Test are meant to be focused on the knowledge that an eligible Station Officer should reasonably be expected to have after 11 years of service (ie, that the Pre-Entry Test is not akin to the old Inspectors' examination, but is simply a test of the candidates' existing knowledge in order to establish an order of merit list pursuant to subclause 13.11.2)?
4. The consent award which provides for the current Pre-Entry Test refers at subclause 13.11.2 to "*the order of merit for entry into each Inspectors' Promotion Program*" and, at subclause 13.11.3, to "*the order of merit list*". Given that the Department previously accepted the current Pre-Entry test as a merit selection process, why is it now referring to it as "a memory test"?

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5. How many Station Officers have sat the Inspectors' Pre-Entry Test since its inception in 1997 and of those candidates, how many went on to successfully complete the IPP?
6. The Department's FAQ answers for staff include the statement that "*after extensive consultation with many stakeholders, there is agreement that the memory test does not recognise skills and competencies that are critical in a modern Inspector's role*". Who were these stakeholders, when and how did this consultation take place and how was this apparent agreement established and recorded?
7. How many FRNSW senior officers (ie, Inspectors, Superintendents, Chief Superintendents, Assistant and Deputy Commissioners) are there at present and of this number, how many were selected for promotion through the current Pre-Entry Test format?
8. Where is the pressing urgency for a new selection process? Why couldn't/shouldn't the 2013 Pre-Entry Test be held in the same way it has been held since 1997 so as to allow (a) potential candidates appropriate notice of any change and (b) the parties to negotiate a new Pre-Entry Test without what, in the absence of any plausible explanation to the contrary, appear be artificial and self-imposed time constraints?
9. The Department's FAQ answers for staff ask "*will there be a memory test this year if the current changes are held up?*", to which the Department's answer is a definitive "*No*". Given the answer to Question 7 and the "no implementation" provision of Award subclause 36.7, is it not possible that the Department might still need to conduct another Pre-Entry Test under the current format?
10. What practical obstacles are there to prevent the Department from conducting another (and in all likelihood, final) Pre-Entry Test under the current format? If the Department agreed or it was required to do so, what would be the earliest date that this Pre-Entry Test could be held?
11. Did a vacancy arise in any Country Inspector position between 27 April 2012 and 12 July 2013? If so, where and when did each such vacancy arise?
12. Did the Department advertise any of the Country Inspector vacancies referred to in Question 11? If so, how (e.g. in Commissioner's Orders or internal memorandum, etc.) and when was each vacancy advertised?
13. Were any of the Country Inspector vacancies referred to in Question 11 filled and, if so, when?
14. Does the process for filling Country Inspector positions remain as determined by the Commission in IRC 884 of 2010, and do the Standing Orders governing the allocation of unfilled Country Station Officer and Inspector positions continue to apply? If not, then why not?
15. How many Station Officers undertook the 2012 IPP Pre-Entry Test and of those candidates, how many were placed on that Program?
16. Were the Station Officers placed on the eligibility list arising from the April 2012 IPP Pre-Entry Test eligible, until 28 April 2013, for promotion on the occurrence of a country vacancy pursuant to the Standing Orders governing the allocation of unfilled Country Station Officer and Inspector positions? If not, why not?

17. How many officers of Inspector rank are not presently in their substantive position (whether Operational Support or Duty Commander) because they are undertaking temporary 'special projects', higher duties or otherwise on secondment elsewhere? Is this generally typical of the number of Inspectors who are temporarily operating out of their substantive position at any given point in time?
18. Noting the already identified positions at Leeton (2), Bathurst (1) and Maitland (2), where (ie, Metro or Regional) and when (ie, over what time period, for example "in the 3rd quarter of 2014") are each of the remaining five expected Inspector vacancies/promotions expected to occur?
19. Are any of the five remaining IPP positions advertised in Commissioner's Orders 2013/15 the new Metropolitan Duty Commander positions notified to the Union in correspondence dated 15 June 2012?
20. Why is the time frame provided in Commissioner's Order 2013/15, from only 12 July to 2 August (3 weeks) so short? Why should this not be extended to 6 weeks so as to afford all Station Officers and potential candidates, including those on extended leave, notice?
21. At what point between its letters of 16 November 2011 and 16 May 2013 did the Department insert additional stages, including psychometric testing, to its proposed process. Why were these additional stages not raised with the Union prior to the Department's letter of 16 May 2013?
22. What are the intended timeframes for each of the remaining stages (psychometric testing, interview and practical) of the proposed process?
23. When does the Department expect the 2013 Inspectors' Promotion Program (as opposed to the Pre-Entry Test) to commence?
24. The Department's procedure documentation refers candidates to their Station Officer or (Duty) Commander for support. What support are Station Officers and Duty Commanders expected to provide candidates? What training or advice have Station Officers and Duty Commanders received in order to facilitate this support role? Is the Department concerned that the devolution of this responsibility may result in candidates receiving uneven advice/information and if not, then why not?
25. In correspondence date 16 November 2011 the Department acknowledged the Union's expectation of increased remuneration for candidates who met specific first stage criteria for the IPP as a "threshold issue" for any new selection process, but has not discussed or responded to this issue at any stage since. Why?

Portfolio

26. Was a position description used to determine the selection criteria? If the answer is yes, then what was/is this position description and further, was this position description discussed or agreed with the Union? If the answer is no, how were the selection criteria determined? What regard was given to the Deloitte report prepared in October 2011 on the role of Duty Commander?
27. How would the proposed selection criteria compare with the knowledge that an eligible Station Officer should reasonably be expected to have after 11 years of service?

28. Regarding the Emergency Management criteria, how and/or why would a Station Officer have a Diploma in Emergency Management or the equivalent knowledge and skills? To that end, what does the Department consider to be tertiary equivalent skills in Emergency Management?
29. Regarding the Non-Operational Fields criteria, what would the Department consider to be tertiary equivalent skills in frontline management, finance, human resources, logistics, administration, or services industry experience?
30. How, if at all, does the Department propose to assist unsuccessful candidates whose feedback identifies deficiency in relation to their application, and who would bear the cost of any relevant external qualification and/or training undertaken?
31. Would all potential candidates be given equal opportunity to acquire operational experience in a variety of stations and roles? If so, how would these opportunities be afforded?
32. Would all potential candidates be given equal opportunity to acquire non-operational experience in Operational Support roles? If so, how would these opportunities be afforded?
33. Is a draft portfolio or template available that is indicative of what the Department would expect of candidates? If so, would candidates be given a copy as a guide? If not, why not?
34. Why would the portfolio require 'evidence' of the minimum two years experience criteria when an existing pre-requisite under the Award is the attainment of the Station Officer Level 2 rank, for which two years' service is already required?
35. Are the seven criteria proposed by the Department to be evenly weighted? If not, how would they be weighted?
36. Noting that portfolios would be rated between 1 (unsatisfactory) and 5 (excellent), would there be a marking guide? If so, what would this guide be? If not, how would the selection panel know on what basis to award ratings?
37. If the marking system was to be determined only by the four panel members (ie, subjectively by each particular panel), would this be by consensus or would each panel member allocate his or her own marks? How would this be articulated, and therefore understood by a third party in the event of a review?
38. Would the portfolio stage be a culling stage or would all candidates continue to progress through each of the stages and be graded on their overall performance in the Pre-Entry Test?
39. If the portfolio stage is intended to be a culling stage, what proportion of candidates does the Department anticipate would proceed from the portfolio stage to the psychometric test?

Psychometric testing

40. Why is psychometric testing now considered appropriate or necessary? Why did the Ambulance Service of NSW recently cease using psychometric testing?

41. How would the proposed psychometric test avoid/eliminate potential discrimination arising out of cultural differences or language skills?
42. What are the criteria against which candidates are proposed to be measured (ie what values/characteristics would FRNSW be looking for and what would FRNSW be avoiding?)
43. What comparator workforce is proposed to be used for benchmarking (eg, the example comparator provided to the Union was the field of engineering)?
44. Does the Department propose a minimum mark or rating for the proposed psychometric test? If not, why not?
45. Is the Department proposing minimum required levels of the relevant fields (eg, cognitive function and emotional intelligence) and if not, why not?
46. Would candidates be able to carry over their psychometric test results or would they be required to re-sit this test every time they applied for the IPP?
47. When and how frequently could a Station Officer sit and re-sit a psychometric test, and what would be the likelihood of a different outcome in any subsequent test?
48. Why shouldn't a firefighter of any rank be permitted to undertake the psychometric test in order to gauge their prospects for promotion? Why should any firefighter (but particularly a Station Officer) be expected to wait until after they had submitted a portfolio before they could undertake the psychometric test?
49. What industrial arrangements (including pay and travel entitlements) does the Department propose to apply to candidates undertaking the psychometric test? Would the psychometric test be conducted off-duty and off-site, or on-duty and/or at a fire station?
50. Who would receive the psychometric test results? Would these test results contain the responses to some or all questions, a mark or rating, or simply a pass/fail?
51. How would the psychometric test results be used? That is, could/would the test results also be used by management to determine a candidate's suitability for their current position and if not, then why not?
52. How would the selection panel use the psychometric test results? Would the panel receive the candidate's rating only, or would it have access to the candidate's responses to some or all of the actual test questions?
53. Could the selection panel override a psychometric test result if it believed that one candidate performed better in, say, the interview and portfolio than a candidate who achieved a higher rating in the psychometric test?
54. Would the psychometric stage be a culling stage or would all candidates progress through this stage and be rated on their overall performance in all stages of the Pre-Entry Test?
55. If the psychometric test is intended to be a culling stage, what proportion of candidates does the Department anticipate would proceed from the psychometric test to the interview stage?

56. If the psychometric test is intended to be a culling stage, how does the Department reconcile this intention with its FAQ answer that *"Research has shown that psychometric tests, in combination with a merit based interview or practical test, are the best way to determine a candidate's suitability for a job"*? Doesn't this mean that the psychometric test is not a reliable indicator of suitability unless the candidates are also interviewed and/or tested in a "multifaceted approach"?

Interview and practical test

57. What proportion of candidates does the Department anticipate would proceed to the interview stage?
58. Could a candidate who was culled prior to the interview stage seek an appeal/review of that decision prior to the conclusion of the entire process? If not, then why not?
59. Why wouldn't/shouldn't all candidates be interviewed and undertake the practical test? If they were not permitted to undertake all stages of the proposed Pre-Entry Test, wouldn't that mean that the four stages were not equally weighted, as the portfolio or the psychometric test could eliminate the candidate?
60. Would the interview questions be the same for all candidates? If so, would candidates be given prior knowledge of the questions in order to prepare? If not then why not?
61. How does the Department reconcile its FAQ answer to staff that *"the interview consists of questions designed to elaborate on the information you have provided in your portfolio"* with the subsequent, contradictory advice that *"to ensure the process is fair the questions will be the same for all applicants"*?
62. How does the Department propose to conduct and assess the interviews? Would there a marking guide? If not, how would the selection panel know on what basis to mark/rate the candidates?
63. What industrial arrangements (including pay and travel entitlements) does the Department propose to apply to candidates undertaking the interview and/or practical test? Would this test be conducted off-duty and off-site, or on-duty and/or at a fire station?
64. The Department's FAQ for staff refers to a requirement *"to provide two referees, one of which needs to be a direct supervisor"*. The FAQ goes on to ask *"what if I don't get on with my supervisor?"*, with the Department then answering by expressing confidence *"that line managers will be professional in providing appropriate referee reports"*. Why should a candidate not be permitted to nominate their own referee(s)? What training and/or experience do the supervisors of Station Officers currently have in providing such reports? What if any recourse is available to a Station Officer candidate who believes that their supervisor(s) has exhibited bias against them, or in favour of another candidate?
65. Would all candidates who are interviewed also undertake the practical assessment, or could they be culled following their interview?
66. Has the proposed practical assessment been developed yet? What would be the format of the practical assessment? Would the practical assessment continue to be based on the operational knowledge reasonably expected of a Station Officer? Would it be a verbal tabletop exercise or a computer based simulation?

67. Does the Department intend the proposed practical assessment to be a pass/fail test, or would it be marked/graded? In the event that the practical assessment would be marked, who would undertake this assessment? Is there a marking guide for the practical assessment? If so could the Union be provided with a copy? If not, how would the assessor(s) know on what basis to award marks?

Review and feedback

68. The Union has asked whether the proposed review would be a genuine appeal process (ie, with potential remedies for the appellant) or a simple review process (with no remedies). The Department responded by confirming "a genuine review", which frankly leaves the Union none the wiser. Put simply, would the proposed review be capable of overturning an adverse decision of the selection panel and placing the appellant on the Inspectors Promotion Program?

69. If the review is intended to act as a genuine appeal then does the Department intend that a successful appellant would be added to the number already accepted onto that Inspectors' Promotion Program, or would their successful appeal result in another candidate being removed from the Program? In the event of the latter, would a displaced candidate then also have a right of review/appeal?

70. Is there a proposed timeframe for the proposed review/appeal process and, if so, would this process be concluded prior to the commencement of the Program in question?

71. Given the Department's past reassurance of an external and independent appeals process being available to firefighters - initially through GREAT and later the IRC - and the NSW Government's recent removal of all such appeal rights, what is the Department's attitude now to the possible inclusion of a Union-nominee on (a) the selection panels and/or (b) the Commissioner's review panels?

72. Would a candidate's feedback include the marks or ratings they received at each stage? Would the candidate be advised of how they rated against the other candidates in each stage?

73. What industrial arrangements (including pay and travel entitlements) does the Department propose to apply to candidates attending their post-test feedback session? Would this feedback occur off-duty and off-site, or on-duty and/or at a fire station?

Please contact Senior Industrial Officers Chris Read or Gemma Lawrence should you wish to discuss this matter directly.

Yours sincerely,



Jim Casey
State Secretary