



11 April 2023

Mr Michael Baldi  
Executive Director People & Culture  
People & Culture Directorate  
Fire and Rescue NSW  
Locked Mail Bag 12  
GREENACRE NSW 2190

Dear Michael

**Re: FBEU Feedback of the FRNSW Workplace Safety Risk Assessment Version 6 Draft**

Thank you for providing FRNSW proposed draft risk assessment for consultation.

We wish to note at the outset that the FBEU continues to have significant concerns with FRNSW's proposed risk assessment and continue to seek a meeting to discuss the many questions that arise from it, and to engage in a genuine consultation prior to providing a full and considered response. Following any subsequent meetings, the FBEU will likely request an opportunity for further comment, if appropriate.

The FBEU however provides the initial below feedback relating to the FRNSW Workplace Safety Risk Assessment Version 6 Draft.

The current Risk Assessment is built virtually solely around the now outdated and structurally weakening two vaccine mandate as the principal risk control measure.

This feature is reflected on in a new Report for NSW Health see the extracted section below:

**COVID-19 vaccines for healthcare workers: evidence summary for NSW Health 1 February 2023**

*While vaccination may reduce the risk of an infected vaccinated person transmitting virus to a close contact by reducing viral load and duration of virus shedding, ongoing surveillance by the UK Health Security Agency reports that the reduction in transmission is limited (ranging from 0-25%) following a COVID-19 vaccine primary series and booster dose in people without past SARS-CoV-2 infection.<sup>2</sup> Protection following a primary series with evidence of past infection is expected to be similarly low.*

While FRNSW have advised that over 98 percent of staff have complied with the COVID-19 vaccination requirements policy (which imposes a two-dose mandate) we also understand from the data provided previously that perhaps up to one third of employees have not received any further doses of a Covid-19 vaccine post the initial two doses. This effectively renders their protection, and any risk in the workplace, to minimal, if any, as compared to a person who has complied with the policy.

Given this, we re-state our previous concerns that this proposed risk assessment and the subsequent COVID-19 vaccination policy, makes little sense in the context of risk minimisation and control.

The FRNSW risk assessment refers to advice from the National Centre for immunisation Research and Surveillance issued statement "COVID19 vaccines for healthcare workers: evidence summary for NSW Health." Albeit that firefireighters are not health care workers, the advice states the following:

*Evidence suggests that at least two doses of a COVID-19 vaccine and a past SARS-CoV-2 infection (i.e., 'hybrid' immunity) provides a high level of protection against severe disease and death that persists for at least 12 months.*

*Good vaccine protection against severe outcomes is also reported following a COVID-19 vaccine primary series and booster dose in the absence of past infection.*

Based on these factors, it is put to you that, as the majority were double vaccinated prior to December of 2021, some even from many months before so, the vaccine requirements policy only effects protection up to December 2022 at the very most. These protections are no longer guaranteed in the FRNSW premises. Further, based on the quoted advice, if non-vaccinated employees have been infected with COVID-19, that is considered good vaccine protection and therefore such employees should not be excluded from the workplace.

Further, this proposed risk assessment appears to rely on the wide use of RAT tests and face masks as a protection against COVID-19, especially people from the community wearing face masks if they don't provide a COVID-19 test, etc however it seems uncertain as to how widely this is in fact enforced at FRNSW premises.

In fact, as demonstrated in figures 1 and figures 2, the level of RAT test kits being distributed have gone down dramatically, demonstrating that the use of this measure it not being used as described in the risk assessment. This brings into question how the control measures have been arrived at given that the risk assessment relies on measures which may not, in fact, represent the reality of what is occurring on the ground.

It is purported, in hazard 7, that the risk rating has decreased from high to moderate, for employees facing psychological impacts, for those who object to the vaccine requirements policy. This risk is clearly not being considered accurately. In fact, the FBEU, who is representing a large cohort of members impacted by the Covid-19 vaccination policy, can report direct that many of our members have been severely impacted by the actions of FRNSW in denying them access to the workplace and failing to provide clear direction as to your intentions. Many of our members have suffered from severe mental and psychological health illnesses as a result.

Given the above, it is the FBEU's view that the proposed risk assessment no longer logically assesses the risk in the workplace, and by design, is now entirely focused on the issue of punishing worker behaviour. In this respect it is noteworthy that FRNSW workers are the most vaccinated 98%+, exceeding the ACT at 94.7% two doses. And FRNSW exceeds the broader NSW average by nearly 9%.

Further undermining any logic behind extending the vaccine mandate, is the novel and illegal exclusion of the Community Fire Unit Volunteers from the aegis of FRNSW Workers. Section 7 of the WHS Act is clear that CFU Volunteers are Workers, see subsection (1) (h).

Simultaneously FRNSW have removed any PCBU Monitoring Requirements for them to assess the effectiveness of this RA, see the two most significant of these below.

*Increased resourcing dedicated to gathering data relevant to FRNSW positive COVID-19 cases to enable compliance with SafeWork NSW reporting requirements and for ongoing monitoring of controls aimed at reducing the transmission of COVID-19 within FRNSW workplaces.*

*Ongoing monitoring of changes in industry standards and practices that could be reasonably implemented in FRNSW.*

This begs the questions, why were these monitoring processes removed, was the required monitoring done since October 2021 and what were the results of these monitoring activities?

This ties back to FRNSW walking away from their Duties in two key Sections of the WHS Act, **Section 18 (c)**.

*(c) what the person concerned knows, or ought reasonably to know, about--*

*(i) the hazard or the risk, and*

*(ii) ways of eliminating or minimising the risk,*

And **Section 19 (3) (g)**.

*that the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers arising from the conduct of the business or undertaking*

As the PCBU's assessment now does not require to 'engage in *ongoing monitoring of controls aimed at reducing the transmission of COVID-19 within FRNSW workplaces*', it can't be anything else than in breach of section 18 and 19 of the **WHS Act**.

The absence from the assessment of implementing simple, inexpensive CO2 Monitors, within a broader PCBU Wide Fire Station Ventilation Strategy, as called for in July 2021, in *The UK Royal Academy of Engineering and the UK National Engineering Policy Centre Report, Infection Resilient Environments – Buildings that keep us healthy and safe, 19 July 2021*, (see excerpts below) also demonstrates a lack of S.27 Due Diligence by the ELT to provide the funding and leadership to use the last 18 months to move beyond a WHS Risk Management approach, that now only focuses on the Section 28 Worker Duty.

#### ***Page 9 Environmental monitoring.***

*Simple, cost-effective environmental monitoring can be a useful tool to understand how the environment changes with different mitigations and levels of occupancy to inform decision-making. The use of air quality monitoring, such as carbon dioxide (CO2) meters, can be used by facilities management teams to assess ventilation and occupancy. When used actively by occupants alongside measurements of temperature and humidity it can also allow ventilation in an environment to be appropriately balanced with thermal comfort and energy use.*

#### ***Page 5 Infection Control and Net Zero***

*It is feasible to achieve an indoor environment that can mitigate transmission of infection within a thermally comfortable and energy efficient building. With appropriate technology and effective management, the need for appropriate ventilation and indoor air quality in a building is compatible with strategies to reduce carbon emissions and attain net zero.*

*There are synergies here that should be exploited: raising skills and awareness can enable better management of both air quality and energy efficiency. New solutions may not always force us to make binary choices, and where trade-offs between ventilation and energy conservation exist they should be controlled and well managed.*

These systemic and now chronic failings by FRNSW as the PCBU and its' WHS Officers, are far more deserving of WHS enforcement actions, than the less than 2% of FRNSW Workers not vaccinated.

It is notable that the most specific assessment references to the various Duty holders under the WHS Act, are as follows:

- The *FRNSW Work Health and Safety Policy* requires FRNSW workers comply with their legislated responsibilities under section 28 of the WHS Act,

- The WHS Regulation (Chapter 3) makes it mandatory for duty holders (FRNSW) to work through the hierarchy of control when managing risks.

See *Reg 40(e) ventilation enables workers to carry out work without risk to health and safety*, so for the Regulatory context how does the assessment address this key duty of the PCBU?

The underlying assumption of the assessment is that the only reasonably practical PCBU Engineering Control for COVID-19 prevention and management, happens in a GP's office or equivalent.

Looking at the Ventilation references in the RA, these arise in Clause 17 only. As far as the RA is concerned, only workers and their supervisors have a role in ensuring workplace ventilation.

It is the duty of FRNSW as a PCBU / WHS Officers to make structural ventilation changes, in addition to the obvious use of CO2 monitors.

In conclusion, the overall COVID-19 Risk Management process by FRNSW as the PCBU and WHS Officers, as reflected in the various iterations of the RAs. Shows nearly eighteen months of lost opportunities to pursue consultative Best Practice risk controls and monitoring / evaluation of these.

As stated above, the FBEU wishes to seek an urgent meeting to go over further questions we have arising from this draft assessment. Your urgent response is appreciated.

**Yours fraternally**



Leighton Drury  
State Secretary